

Case Notes for Ivan Greenberg

Requester: Ivan Greenberg
Requester Organization: Himself
Case Number(s): AG/09-R1104
Date of Request: July 9, 2007
OIP Receipt Date: September 14, 2009
Received by GEB: September 14, 2009
Request: Records pertaining to former FBI Director Patrick Gray, III

History:

- Requester sent his request directly to the FBI.
- On January 7, 2008 the FBI sent a letter to the requester summarizing a conversation the requester had with Peggy Jackson in which he narrowed the scope of his request for documents from 1/1/1972 to the present.
- The FBI referred an unclassified document to our office for processing and direct response to the requester which JES processed.

September 14, 2009

- DRH gave me the case to process since the documents were classified. This case is not the subject of litigation per the FBI.

(b) (5)

September 15-16, 2009

(b) (5)

- On 9/16/09 finished going through the documents and indexing them.

(b) (5)

(b) (5)

- Submitted the case to DRH for review of the documents.
- Changed the status of this request to review.

September 16, 2009

(b) (5), (b) (6), (b) (7)(C)

February 19, 2010

(b) (5), (b) (6), (b) (7)(C)

© (b) (5), (b) (6), (b) (7)(C)

©

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March 1, 2010

- © (b) (5)
- ©
- ©
- © There were quite a few documents that could be referred to other DOJ components.
- © Went back through the documents and changed how we were going to process the documents on the document index.
- © Placed the classified folder in DRH's section of the safe for review.

March 10, 2010

© (b) (5), (b) (6), (b) (7)(C)

March 11, 2010

- Ⓢ (b) (5) [REDACTED]
- Ⓢ Drafted the CRM, NSD, and EOUSA referrals.
- Ⓢ (b) (5), (b) (6), (b) (7)(C) [REDACTED]
- Ⓢ [REDACTED]
- Ⓢ [REDACTED]
- Ⓢ Submitted the classified referrals to DRH for review and signature.
- Ⓢ Put the classified packages together so Nakeitha or someone on admin staff could send out the packages.

March 23, 2010

- Ⓢ DRH provided me with the correct automatic declassification dates for the documents and the complete stamp for one of the documents. (b) (5), (b) (6), (b) (7)(C) [REDACTED]
- Ⓢ Printed of the stamps for the Chief of Staff for AG to sign and also the stamps for the FBI that needed to be added on the documents where appropriate.

March 21, 2010

- Ⓢ Drafted the AG declassification memo and e-mailed to DRH (b) (6) [REDACTED]

March 24, 2010

- Ⓢ (b) (5) [REDACTED]

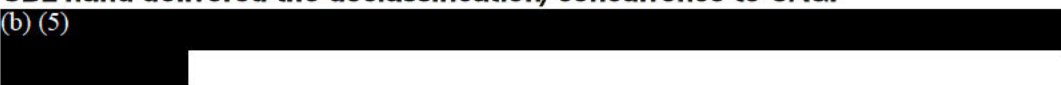
2. (b) (5)

A large rectangular area of the document is completely redacted with black ink, covering approximately 15 lines of text.

Ⓢ


- Ⓢ Reviewed the declassification memo and made corrections.
- Ⓢ Placed the AG declassification memo in CLM's chair so she can review in the morning.
- Ⓢ Placed the classified folder in CLM's section of the safe.

March 25, 2010

- Ⓢ CLM signed the AG declassification/concurrence.
 - Ⓢ SBL hand delivered the declassification/concurrence to OAG.
 - Ⓢ (b) (5)
- 
- A rectangular area of text is redacted with black ink, located below the list for March 25, 2010.

March 29, 2010

Ⓢ (b) (5)

A large rectangular area of the document is completely redacted with black ink, covering approximately 10 lines of text.

Ⓢ

March 30, 2010

- Ⓢ DRH returned the final response with corrections.

April 1, 2010

- ☉ Made the corrections and resubmitted to DRH for review and submission to CLM.

April 8, 2010

- ☉ CLM returned the final response signed.
- ☉ Prior to me sending out the consult response I sent a copy of the letter that we planned on sending to the requester to the litigator in this case.
- ☉ (b) (5) [REDACTED]
- ☉ Sent out the final response.
- ☉ Closed the case in Oracle.
- ☉ Placed the classified folder in the closed portion of the safe.



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530-0001

Mr. Ivan Greenberg
2105 Wallace Avenue
Apartment 5A
Bronx, NY 10462

Re: AG/09-R1104
CLM:DRH:GEB

Dear Mr. Greenberg:

While processing your Freedom of Information Act (FOIA) request dated July 9, 2007, for records pertaining to L. Patrick Gray, the Federal Bureau of Investigation (FBI) referred fifty pages of classified material, to this Office for processing and direct response to you on behalf of the Office of the Attorney General. For your information, the documents were received by this Office on September 14, 2009.

I have determined that five pages of material should be declassified and released without excision and copies are enclosed. I have also determined that four pages of classified material are appropriate for release with excisions made on behalf of the FBI pursuant to Exemption 1 of the FOIA, 5 U.S.C. § 552(b)(1), which pertains to information that is properly classified in the interest of national security pursuant to Executive Order 12958, as amended.

Because forty-one pages of classified material are of primary interest to other Department components, we have referred that material to those offices for processing and direct response to you. Specifically, we have referred twenty-three pages to the Executive Office for United States Attorneys; sixteen pages to the Criminal Division; and two pages to the National Security Division (NSD). I understand that NSD has already responded directly to you. Any further status inquiries regarding the processing of these documents should be made to the appropriate component at the addresses listed below:

William G. Stewart, II, Assistant Director
FOIA/Privacy Unit
Executive Office for United States Attorneys
United States Department of Justice
Room 7300, 600 E Street, NW
Washington, DC 20530-0001

Rena Y. Kim
Chief, FOIA/PA Unit
Criminal Division
United States Department of Justice
Suite 1127, Keeney Building
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Although I am aware that your request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you of your right to file an administrative appeal.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Carmen L. Mallon', followed by a long horizontal flourish.

Carmen L. Mallon
Chief of Staff



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

MAR 22 2010

Dr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Re: Appeal No. 2009-0107
Request No. 1118463-001
ADW:RMF

Dear Dr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to Gerald R. Ford.

After carefully considering your appeal, and as a result of discussions between FBI personnel and a member of my staff, the FBI conducted a further search and located additional records that might be responsive to your request. Accordingly, I am remanding your request for review and processing of these records. If these records are responsive to your request, the FBI will send any and all releasable records to you directly, subject to any fees. Additionally, the FBI will reprocess the records released to you by letter dated September 30, 2008. You may appeal any future adverse determination made by the FBI. If you would like to inquire about the status of your remanded request, please contact the FBI directly.

If you are dissatisfied with my action on your appeal, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Janice Galli McLeod
Associate Director

FILE COPY



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

ADW/FWD
3/12-2010

Dr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Re: Appeal No. 2009-0107
Request No. 1118463-001
ADW:RMF

Dear Dr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to Gerald R. Ford.

After carefully considering your appeal, and as a result of discussions between FBI personnel and a member of my staff, the FBI conducted a further search and located additional records that might be responsive to your request. Accordingly, I am remanding your request for review and processing of these records. If these records are responsive to your request, the FBI will send any and all releasable records to you directly, subject to any fees. Additionally, the FBI will reprocess the records released to you by letter dated September 30, 2008. You may appeal any future adverse determination made by the FBI. If you would like to inquire about the status of your remanded request, please contact the FBI directly.

If you are dissatisfied with my action on your appeal, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

↓
Janice Galli McLeod
Associate Director



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

Dr. Ivan Greenberg

No. 5A ✓

2105 Wallace Avenue ✓

Bronx, NY 10462

Re: Appeal No. 2009-0107 ✓

Request No. 1118463-001 ✓

ADW:RMF

Dear Dr. Greenberg:

You appealed from the action of the ~~Department Office of the~~ Federal Bureau of Investigation on your request for access to records pertaining to Gerald R. Ford.

by letter dated
After carefully considering your appeal, and as a result of discussions between FBI personnel and a member of my staff, the FBI conducted a further search and located additional records that might be responsive to your request. Accordingly, I am remanding your request for review and processing of these records. If these records are responsive to your request, the FBI will send any and all releasable records to you directly, subject to any fees. Additionally, the FBI will ~~review~~ the records released to you on September 30, 2008. You may appeal any future adverse determination made by the FBI. If you would like to inquire about the status of your remanded request, please contact the FBI directly.

3
repress
As part of the 2007 Freedom of Information Act amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-864-6448

If you are dissatisfied with my action on your appeal, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Janice Galli McLeod
Associate Director

By:

Anne D. Work
Acting Senior Counsel
Administrative Appeals Staff



U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

OCT 23 2008

Dr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Re: Request No. 1118463-001

Dear Dr. Greenberg:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on October 20, 2008.

The Office of Information and Privacy, which has the responsibility of adjudicating such appeals, has a substantial backlog of pending appeals received prior to yours. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **09-0107**. Please mention this number in any future correspondence to this Office regarding this matter.

We will notify you of the decision on your appeal as soon as we can. We regret the necessity of this delay and appreciate your continued patience.

Sincerely,

Priscilla Jones
Supervisory Administrative Specialist

APPEAL NO.	COMPONENT	REQUEST NO.	BLITZER	REV'
2009-0107	FBI	1118463-001	RMF	02-22-2010

REQUEST:

REQUEST DATE	REQUESTER NAME	PRISONER	ATTORNEY
Dated: 08-08-2008 Rec'd: 08-21-2008 Re-opened 9-29-08 when payment rec'd	Greenberg, Ivan	no	no
SUBJECT OF REQUEST	Records pertaining to President Gerald R. Ford from January 1, 1970 to present.		

AGENCY RESPONSE: Pre-processed

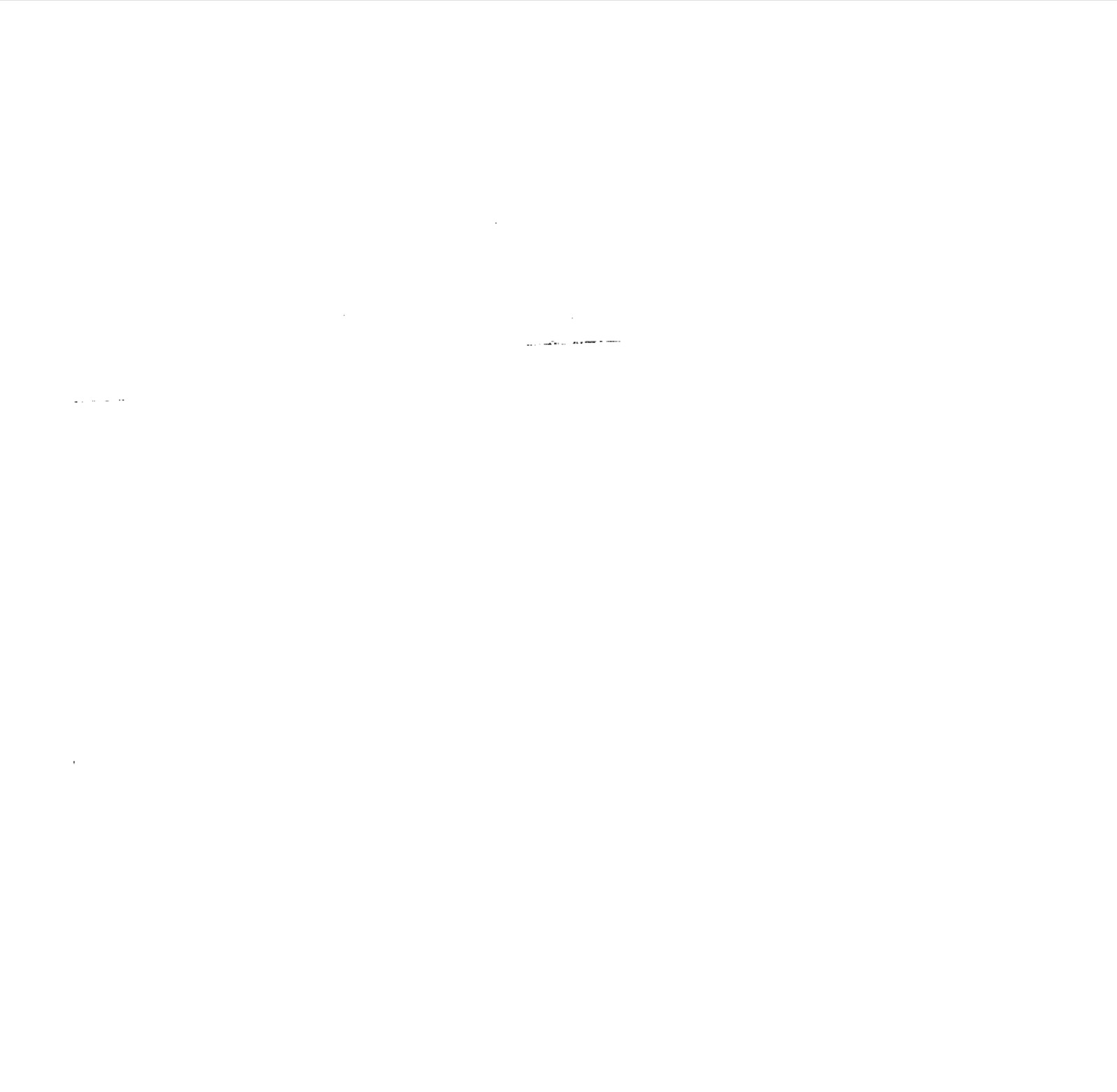
ACTION:	No records	Partial release	Full denial	Full release	Fee waiver denied	Inadequate descrip.
	Need more info	No priv. waiver/POD	No cert of ID	Fees unpaid	Referral	Lost / destroyed

DATE		TOTAL REVIEWED			TOTAL RELEASED			IN FULL		IN PART		TOTAL WITHHELD			
09-30-2008					488										
REFERRED		Include pages and each component / agency							OTHER PAGES		Such as non-responsive, duplicate, PSI, etc.				
FOIA	B1	B2	B3 (statute(s)):					B4	B5	B6	7A	7C	7D	7E	7F
PA	J2	D5	K1	K2	K3	K4	K5	K6	K7	OTHER		Glomar		Sealed	

APPEAL:

DATE OF APPEAL	Dated: 10-082008 Rec'd: 10-20-2009	AGENCY CONTACT	(b) (6), (b) (7)(C)	PHONE NUMBER	(b) (6), (b) (7)(C)
ARGUMENTS ON APPEAL	Withholding Issue				
ISSUES	Withholding issue	Search issue	Fee issue	Waiver/Cert of ID issue	Not true appeal
ASKS FOR ...	Vaughn Index	Regs / statutes	Research	Brady/Jencks material	Non-FOIA help

RECOMMENDATION	(b) (5)
(b) (5), (b) (6), (b) (7)(C)	



Director
Office of Information and Privacy
U.S. Department of Justice
1425 New York Ave., NW, Suite 11050
Washington, DC 20530-0001

Assign to
~~DOJ~~
STV

09-0107
FOIA
(A)
FBI

Oct. 8, 2008

Re: Freedom of Information Act Appeal

Dear Director:

This is an appeal under the Freedom of Information Act.

By letter dated Aug. 8, 2008, I submitted a FOIA request for records "pertaining to and/or captioned: Gerald R. Ford, (President of the United States)." My request was assigned Request No. 1118463-001.

By letter dated September 30, 2008, the FBI released to me 488 pages. The letter indicated that redactions had been made due to the applicability of FOIA Exemptions.

I hereby appeal the adequacy of the FBI's search and the redactions made with respect to the 488 pages identified as responsive.

Thank you for your consideration of this appeal.

Sincerely,



Dr. Ivan Greenberg App
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228

OFFICE OF INFORMATION
AND PRIVACY

OCT 20 2008

RECEIVED



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

September 30, 2008

MR. IVAN GREENBERG
#5A
2105 WALLACE AVENUE
BRONX, NY 10462

Request No.: 1118463- 001
Subject: FORD, GERALD R.

Dear Mr. Greenberg:

The records that you have requested were previously processed under the provisions of the Freedom of Information Act for another requester.

Enclosed are 488 pages of documents pertaining to your request and a copy of the explanation of exemptions.

You may submit an appeal from any denial contained herein by writing to the Office of Information and Privacy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, within sixty days from the date of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIPA number assigned to your request so that it may be easily identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over a horizontal line.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

Federal Bureau of Investigation
Records Information/Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843
fax: (540) 868-4995

Aug. 8, 2008

This is a noncommercial request under the Freedom of Information and Privacy Acts.

I request a complete and thorough search of all filing systems and locations for all records maintained by your agency pertaining to and/or captioned:

Gerald R. Ford (President of the United States)

An obituary is enclosed.

I only am interested in material dated Jan. 1, 1970, to the present.

This request specifically includes where appropriate "main" files and "see references," including but not limited to numbered and lettered sub files and control files. I also request a search of the Electronic Surveillance (ELSUR) Index, or any similar technique for locating records of electronic surveillance. I request that all records be produced with the administrative pages. I wish to be sent copies of "see reference" cards, abstracts, search slips, including search slips used to process this request, file covers, multiple copies of the same documents if they appear in a file, tapes of any electronic surveillance, photographs, and logs of physical surveillance (FISUR). Please place missing documents on "special locate."

Please provide the material to me in an electronic form on CD-ROM. .

Sincerely,



Dr. Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228
lgreen7047@aol.com



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

September 30, 2008

MR. IVAN GREENBERG
#5A
2105 WALLACE AVENUE
BRONX, NY 10462

Request No.: 1118463- 001
Subject: FORD, GERALD R.

Dear Mr. Greenberg:

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Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over the typed name.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could be reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could be reasonably expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence. FBI/DOJ



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

August 21, 2008

DR. IVAN GREENBERG
#5A
2105 WALLACE AVENUE
BRONX, NY 10462

Request No.: 1118463- 000
Subject: FORD, GERALD R.

Dear Dr. Greenberg:

~~This acknowledges receipt of your Freedom of Information Act (FOIA) request.~~

The information you requested has previously been released to other individuals. In an effort to expedite your request, 488 pages are available in the same form as it was released in the past.

Pursuant to Title 28, Code of Federal Regulations, Section 16.11, there is a duplication fee of ten cents per page for every page released over 100. To receive these documents, please send a check or money order, payable to the Federal Bureau of Investigation, in the amount of \$ 38.80. Your material will be copied and forwarded to you as soon as we receive this payment. If we do not receive this payment within thirty days your request will be closed. Remember to place your FOIPA number on your check or money order so we can identify your request.

Sincerely yours,

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Bronx, NY

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OPEN & INSPECTED

130 Marcel Drive - 2113
Winchester, Va WINCHESTER 15391
22602-4843

FD-14

[illegible]

國際勞工組織



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

OCT 23 2009

Mr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Dear Mr. Greenberg:

You attempted to appeal from the failure of the Federal Bureau of Investigation to respond to your request dated August 11, 2009 pertaining to ADEX (Administrative Index).

A member of my staff has been advised by the FBI that it has no record of receiving this request from you. Accordingly, by copy of this letter, we are referring your letter to the FBI for processing and direct response to you. You may appeal any future adverse determination made by the FBI.

Sincerely,

Priscilla Jones
Supervisory Administrative Specialist

PJ:DEB

cc: Federal Bureau of Investigation
FOI/PA Unit
170 Marcel Drive
Winchester, VA 22602

FILE

Sept. 28, 2009

Director
Office of Information Policy (OIP)
U.S. Department of Justice
1425 New York Ave., NW
Suite 11050
Washington, DC 20530-0001

2010-0131

FOIA/PA
(*) (F)
FBI

Failure to
respond

RECEIVED
OCT 15 2009
Office of Information Policy

Freedom of Information Act Appeal

Subject: ADEX (Administrative Index)

Dear OIP Director:

This letter is an appeal under the Freedom of Information/Privacy Acts.

On Aug. 11, 2009, I sent a letter via Fax to the FOIA office of the Federal Bureau of Investigation (FBI) asking for all files on ADEX (Administrative Index). A copy of my request letter is enclosed.

By way of background, ADEX is a FBI detention list of Americans established in 1972. See the enclosed information on ADEX, which is from the book by Frank J. Donner, The Age of Surveillance.

The FOIA office at the FBI did not acknowledge receipt of my FOIA request. The 20-day time limit for acknowledging requests has passed. Therefore, I want to appeal my request for FBI files on ADEX. (F)

Sincerely,



app Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228

Aug. 11, 2009

SUBMITTED VIA FACSIMILE

David M. Hardy, Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
Department of Justice
170 Marcel Drive
Winchester, VA 22602-4843

Dear Mr. Hardy:

This is a noncommercial request submitted pursuant to the Freedom of Information Act and Privacy Act.

I am requesting copies of all records created, received or maintained by the Federal Bureau of Investigation ("FBI"), including all cross-references, that are related to ADEX (Administrative Index).

By way of background, ADEX was established by the FBI in 1972 as a national security emergency arrest list. It listed about 15,000 Americans in 1972.

The scope of this request should be construed to include "main" files and "see references," including but not limited to numbered and lettered sub files and control files. The search parameters should include a search of the Electronic Surveillance (ELSUR) Index, or any similar technique for locating records of electronic surveillance. I request that all records be produced with the administrative pages. I wish to be sent copies of "see reference" cards, abstracts, search slips, including search slips used to process this request, file covers, multiple copies of the same documents if they appear in a file, tapes of any electronic surveillance, photographs, and logs of physical surveillance (FISUR). Please place missing documents on "special locate."

The definition of "records" should be construed to include, but not be limited to, e-mails, facsimiles, and text messages on government-provided cell phones. Furthermore, the scope of the search should not be limited to FBI-originated records and should be construed to include records that are currently in the possession of a U.S. Government contractor for purposes of records management.

If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law. I would request that any records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .jpg, .gif, .tif.

Sincerely,



Dr. Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228

In a parallel development, the former priority arrest listings (COMSAB and DETCOM) merged in 1969 into a Priority Apprehension Program with three levels: top leaders, secondary leadership, and a catch-all compilation of the entries on the master custodial detention list. The implementation of the program required checks by agents, in order to be certain that potential arrestees could be promptly located, and to verify their home and business addresses—every three months in the case of top leaders, and annually for the remainder, which by 1970 totaled 10,640 persons. The "Rabble Rouser Index" or "Agitator Index" was authorized in August 1967, after the Kerner Commission had inquired of the Director whether the Bureau could identify individuals prominent in stirring up civil disorders, but was abandoned in April 1971 as redundant.

The listing of individuals, whether for ultimate detention in the event of war or for clues to the source of civil disorders, masked an underlying tension between passive monitoring and barely suppressed aggression. Why wait for the future showdown? What can be done to get at these people now? This tension found an outlet in special programs directed at "key figures" and "top functionaries," singled out for close penetrative and continuous surveillance. Operational aggression also marked the Key Activist and Key Extremist (originally Black Extremist) programs in effect from the late sixties until February 1975. These programs mandated specially intensive surveillance (informer and electronic coverage, photographs, handwriting specimens), and was directed at travel plans, personal finances, foreign contacts, and income tax returns. The hostility latent in these programs was finally formalized in the COINTELPRO operations, which concentrated on these targets.

In the fall of 1971 Congress awoke from a long slumber and repealed the emergency detention provisions of the Internal Security Act of 1950. The wording and background of this 1971 statute demonstrate that Congress intended not only to wipe out custodial detention but to terminate all incidental authority to compile lists of potential detainees, to conduct surveillance of such individuals, or to engage in any other activities addressed to the forced mass detention contemplated by the repealed 1950 statute. The 1971 measure on its face broadly bars detention "except pursuant to an Act of Congress," and its legislative history further indicates that the statute was intended to abolish the authority of the executive in this field altogether. As in the case of the original 1950 statute, the Bureau and the Department proceeded to circumvent the 1971 repealer. Indeed, according to a Bureau theorist, the fact of repeal itself made circumvention urgent. The Security Index had to be retained, "since the potential dangerousness of subversives is probably even greater now than before the repeal of the Act since they no doubt feel safer now to conspire in the destruction of this country."²³ Confident that somehow, despite the language and purpose of the law, a reliance on inherent executive power could justify a continuation of past practices, Bureau and departmental officials were nevertheless worried about charges of flouting the will of Congress, and devised the familiar rationale that continued listing was a provident measure to prepare for possible future legislative enactment. In response to a Bureau request for authorization to continue the indexing practice as well as to conduct countersubversive investigations generally, Attorney General John Mitchell wrote on October 22, 1971, that the

repeal did not affect the Bureau's authority to compile lists of dangerous subjects or to conduct investigations of subversive activities. On the basis of this reassurance, the Bureau initiated the Administrative Index (ADEX), which continued the SI and Reserve Index listings in the event of national emergency.* The ADEX included the standard classifications of revolutionary leaders and individuals with a claimed propensity for violence, but also lesser figures as well: activists, rank-and-file members of proscribed organizations, and individuals "who are likely to seize upon the opportunity presented by a national emergency." A lower priority (Category III) embraces those considered dangerous despite their limited activity in objectionable groups or causes. Category IV incorporates the old Section A of the Reserve Index, including teachers, lawyers, writers, intellectuals who might influence others, and those who are likely to furnish financial aid.²⁶ As in the case of other lists, the ADEX was trimmed in 1972 after the death of the Director from 15,259 to 4786, and then in 1976 to approximately 1250 individuals. In 1973, to conform the ADEX to the new deference to enacted legislation, the field was informed that the ADEX was not to be regarded as a guide to "investigative decisions or policies"—that was to be found in statutes—but as "strictly an administrative device," a feeble attempt to provide a mantle of legitimacy for a practice expressly condemned by Congress. Despite the reduced number of listees, the ADEX was marked by the same overkill as its predecessors. In December 1975 a Bureau official testified that the ADEX listed 110 members of the Socialist Workers' Party, notwithstanding the fact that the organization itself had been removed from the Bureau's surveillance agenda on the basis of testimony that it had never engaged in violence.

Like the domestic intelligence system as a whole, the fabric of custodial detention investigation and listing is woven on the loom of foreign intelligence, the monitoring and apprehension of individuals considered actual or potential agents of foreign countries. Apart from wartime spy-catching, discussed in Chapter 4, the Bureau's day-to-day foreign intelligence operations are not the stuff of which best sellers are made. Here the Media papers are again a useful guide. One document describes a Bureau program addressed to individuals (students, professors, scientists) returning to this country from a visit to the Soviet Union of more than one month's duration. They are interviewed by an FBI agent assigned by the Bureau office in the subject's home area, who is required to ascertain if any attempts have been made by the Soviet intelligence services to recruit the subject for intelligence work either in the USSR or, after his return, in the United States. Discretion is required: the subject should not be made to feel that the Bureau's intervention threatens academic or intellectual freedom. A second document deals with the DESECO ("development of selected contacts") program and is designed to recruit spies for our side. A memorandum

*Although Attorney General Mitchell did not formally authorize the ADEX as a continuation of the Security Index detention lists, the documentation reflects an assumption that the Bureau could proceed on that basis and that ADEX was a means of circumventing the repeal of the Emergency Detention Act. Bureau Chief Kelley assured an inquiring congressman in 1975 that the Security Index had been abandoned and destroyed in October 1971, but Bureau sources indicated in press leaks that those cards not absorbed by ADEX were kept in a reserve file—"FBI Is Said to Retain File of Most on Detention List," *New York Times*, Oct. 25, 1975.



U.S. Department of Justice

Office of Information Policy

PP
10/23/09

Telephone: (202) 514-3642

Washington, D.C. 20530

Mr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Dear Mr. Greenberg:

✓ This responds to your letter in which ✓ you attempted to appeal from the failure of the
Federal Bureau of Investigation (FBI) to respond to your request dated ~~September 28, 2009~~ for
access to files pertaining to ADEX (Administrative Index). August 11,

A member of my staff has been advised by the FBI that it has no record of receiving this request from you. Accordingly, by copy of this letter, we are referring your letter to the FBI for processing and direct response to you. You may appeal any future adverse determination made by the FBI.

Sincerely,

Priscilla Jones
Supervisory Administrative Specialist

PJ:DEB

cc: Federal Bureau of Investigation
FOI/PA Unit
170 Marcel Drive
Winchester, VA 22602

by copis

Notes relating to Appeal No. 2010-0131

Spoke with David of the FBI
on 10-22-09

Advised of the following action:

Request from Ivan Greenberg was
never received.

Follow-up notes (if any):



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

JAN 07 2010

Mr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Dear Mr. Greenberg:

This responds to your letter dated December 13, 2009, regarding your request to the Federal Bureau of Investigation.

A member of my staff has been advised by FBI personnel that it has received your request and is currently processing it. I suggest that you contact it directly to inquire about the status of your request. You may appeal any future adverse determination made by the FBI.

Sincerely,

Priscilla Jones
Supervisory Administrative Specialist

PJ:DEB

cc: Federal Bureau of Investigation
FOI/PA Unit
170 Marcel Drive
Winchester, VA 22602

FILE COPY

Dec. 13, 2009

Ms. Priscilla Jones
Supervisory Administrative Specialist
Office of Information Policy
U.S. Department of Justice
1425 New York Ave., NW
Suite 11050
Washington, DC 20530-001

DEC 23 2009
CAS
2010-0755

FOIA
E
FBI

FREEDOM OF INFORMATION ACT APPEAL
Subject: ADEX (Administrative Index)

Dear Ms. Jones:

This is my second letter of appeal to your office about my FOIA request to the FBI for records on ADEX (Administrative Index). I wish to appeal the on-going "mute response" by the FOIA office of the FBI. Despite two attempts to get the FBI office to process my request, they continue not to acknowledge the receipt of my request, violating the 20-day requirement in the law.

By way of background, on Aug. 11, 2009, I submitted the initial request for ADEX records via facsimile. (ADEX was established by the FBI in 1972 as a national security emergency arrest list. It listed about 15,000 Americans in 1972.) The FBI FOIA office did not acknowledge receipt of the request, so I appealed to the Office of Information Policy at your office at the Justice Department.

In a letter dated Oct. 23, 2009, you stated that the FBI said they never received my request. You wrote, "Accordingly, by copy of this letter, we are referring your letter to the FBI for processing and direct response to you. You may appeal any future adverse determination made by the FBI." (A copy of your letter is enclosed.)

More than six weeks have passed and the FOIA office at the FBI still has not acknowledged receipt of my request for ADEX records. >

This failure to comply with the law is especially troubling in light of President Barack Obama's policy to increase transparency in government.

I had asked for records to be released in an electronic form, as opposed to paper. The violation of the 20-day provision in the law should mean I will not be charged any fees for the processing of my request.

Sincerely,



Dr. Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

OCT 23 2009

Mr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Dear Mr. Greenberg:

You attempted to appeal from the failure of the Federal Bureau of Investigation to respond to your request dated August 11, 2009 pertaining to ADEX (Administrative Index).

A member of my staff has been advised by the FBI that it has no record of receiving this request from you. Accordingly, by copy of this letter, we are referring your letter to the FBI for processing and direct response to you. You may appeal any future adverse determination made by the FBI.

Sincerely,

Priscilla Jones
Supervisory Administrative Specialist

PJ:DEB

cc: Federal Bureau of Investigation
FOI/PA Unit
170 Marcel Drive
Winchester, VA 22602

Aug. 11, 2009

SUBMITTED VIA FACSIMILE

David M. Hardy, Chief
Record/Information Dissemination Section
Records Management Division
Federal Bureau of Investigation
Department of Justice
170 Marcel Drive
Winchester, VA 22602-4843

Dear Mr. Hardy:

This is a noncommercial request submitted pursuant to the Freedom of Information Act and Privacy Act.

I am requesting copies of all records created, received or maintained by the Federal Bureau of Investigation ("FBI"), including all cross-references, that are related to ADEX (Administrative Index).

By way of background, ADEX was established by the FBI in 1972 as a national security emergency arrest list. It listed about 15,000 Americans in 1972.

The scope of this request should be construed to include "main" files and "see references," including but not limited to numbered and lettered sub files and control files. The search parameters should include a search of the Electronic Surveillance (ELSUR) Index, or any similar technique for locating records of electronic surveillance. I request that all records be produced with the administrative pages. I wish to be sent copies of "see reference" cards, abstracts, search slips, including search slips used to process this request, file covers, multiple copies of the same documents if they appear in a file, tapes of any electronic surveillance, photographs, and logs of physical surveillance (FISUR). Please place missing documents on "special locate."

The definition of "records" should be construed to include, but not be limited to, e-mails, facsimiles, and text messages on government-provided cell phones. Furthermore, the scope of the search should not be limited to FBI-originated records and should be construed to include records that are currently in the possession of a U.S. Government contractor for purposes of records management.

If you deny all or any part of this request, please cite each specific exemption that forms the basis of your refusal to release the information and notify me of appeal procedures available under the law. I would request that any records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .jpg, .gif, .tif.

Sincerely,



Dr. Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228

Notes relating to Appeal No. 2010-0755

Spoke with David Sobonya of the Jan 7, 2010
on FBI

Advised of the following action:

(b) (5)



Follow-up notes (if any):

(b) (5)



OFFICE OF INFORMATION POLICY
UNITED STATES DEPARTMENT OF JUSTICE

NYAV Building, Suite 11050
Washington, D.C. 20530

Tele-Fax Number: (202) 514-1009

To: David Sobonya

Fax: 540 868 4995

From: Shanette Jenkins

Direct Dial: _____

Additional Information: Please find attached a copy
of both requests.

Number of pages (excluding cover): 6

Date: 1/7/10

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 3703
DESTINATION TEL # 915408684995
DESTINATION ID 01/07 10:53
ST. TIME 00:47
TIME USE 6
PAGES SENT 9
RESULT OK



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

SEP 07 2010

Mr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Re: Appeal No. 2010-2008
Request No. 1147563
ADW:MTC

Dear Mr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to the Ghetto Informant Program. I note that you have limited your appeal to the adequacy of the FBI's search for responsive records.

After carefully considering your appeal, I am affirming the FBI's action on your request. The FBI released fourteen pages of records responsive to your request by letter dated May 5, 2010. Subsequent to your appeal, the FBI conducted an additional search for records pertaining to the Ghetto Informant Program, but was unable to locate additional responsive records. I have determined that the FBI conducted an adequate, reasonable search for records responsive to your request. Please note that the FBI's search included its Electronic Surveillance (ELSUR) Index.

As part of the 2007 Freedom of Information Act amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448

FILE COPY

If you are dissatisfied with my action on your appeal, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in black ink, appearing to read "Janice Galli McLeod". The signature is fluid and cursive, with the first name "Janice" being the most prominent.

Janice Galli McLeod
Associate Director

AP-2010-02635

MTA

May 10, 2010

Director
Office of Information Policy (OIP)
U.S. Department of Justice
1425 New York Ave., NW
Suite 11050
Washington, DC 20530-0001

RECEIVED

MAY 20 2010

Office of Information Policy

2010-2008

FOIA

(A)

FBI

Freedom of Information Act Appeal
Subject: Ghetto Informant Program
FOIPA Request Number: 1147563-000

Dear OIP Director:

Along with a letter dated May 5, 2010, the FOIA office of the FBI released to me 14 pages of the file Ghetto Informant Program, which previously had been processed for a different requestor.

I wish to appeal this release of records to me because I do not believe the FOIA FBI office conducted a thorough search of their files for the Ghetto Informant Program.

The material sent to me consists only of several memos dated either Oct. 5, 1972 or Oct. 6, 1972. Please note that the Ghetto Informant Program opened in 1968 and closed sometime after October 1972. Thus, there is no material covering the years 1968, 1969, 1970, 1971, and most of 1972. For example, there is no material in the FBI file about the opening of the Program during the late 1960s or about the closing of the Program in the 1970s.

I had requested the material be released in an electronic form and hope this will apply to future releases for this request.

Sincerely,



Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

ADW/Frel
8/23-2010

Mr. Ivan Greenberg ✓
No. 5A ✓
2105 Wallace Avenue ✓
Bronx, NY 10462

Re: Appeal No. 2010-2008 ✓
Request No. 1147563 ✓
ADW:MTC

Dear Mr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to the Ghetto Informant Program. I note that you have limited your appeal to the adequacy of the FBI's search for responsive records.

After carefully considering your appeal, I am affirming the FBI's action on your request. The FBI released fourteen pages of records responsive to your request by letter dated May 5, 2010. Subsequent to your appeal, the FBI conducted an additional search for records pertaining to the Ghetto Informant Program, but was unable to locate additional responsive records. I have determined that the FBI ~~has~~ ~~not~~ conducted an adequate, reasonable search for records responsive to your request. *Please note that the FBI's search include its Electronic Surveillance (ELSUR) index.*

As part of the 2007 Freedom of Information Act amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448

-2-

If you are dissatisfied with my action on your appeal, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Janice Galli McLeod
Associate Director

May 10, 2010

Director
Office of Information Policy (OIP)
U.S. Department of Justice
1425 New York Ave., NW
Suite 11050
Washington, DC 20530-0001

RECEIVED

MAY 20 2010

Office of Information Policy

MTA

2010-2008

FOIA

(A)

FBI

Freedom of Information Act Appeal
Subject: Ghetto Informant Program
FOIPA Request Number: 1147563-000

Dear OIP Director:

Along with a letter dated May 5, 2010, the FOIA office of the FBI released to me 14 pages of the file Ghetto Informant Program, which previously had been processed for a different requestor.

I wish to appeal this release of records to me because I do not believe the FOIA FBI office conducted a thorough search of their files for the Ghetto Informant Program.

The material sent to me consists only of several memos dated either Oct. 5, 1972 or Oct. 6, 1972. Please note that the Ghetto Informant Program opened in 1968 and closed sometime after October 1972. Thus, there is no material covering the years 1968, 1969, 1970, 1971, and most of 1972. For example, there is no material in the FBI file about the opening of the Program during the late 1960s or about the closing of the Program in the 1970s.

I had requested the material be released in an electronic form and hope this will apply to future releases for this request.

Sincerely,



Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228

APPEAL NO.	COMPONENT	REQUEST NO.	BLITZER	REV'D ON:
2010-2008	FBI	1147563	MTC	8/19/10

REQUEST:

REQUEST DATE	REQUESTER NAME	PRISONER	ATTORNEY
Dated: 4/25/10 Rec'd: 5/5/10	Ivan Greenberg	No	No
SUBJECT OF REQUEST	Ghetto Informant Program (1967 - early 1970s); specifically asks that an ELSUR search be included		

AGENCY RESPONSE:

DATE	ACTION	REV'D	RIF	RIP	WIF	REFERRED	OTHER
5/5/10	previously processed release	14	14				
FOIA						PA	

APPEAL:

DATE OF APPEAL	Dated: 5/10/10 Rec'd: 5/20/10	AGENCY CONTACT	(b) (6), (b) (7)(C)	PHONE NUMBER	
ARGUMENTS ON APPEAL	Challenges search adequacy				

RECOMMENDATION	(b) (5)
----------------	---------

NOTES:

(b) (5), (b) (6), (b) (7)(C)



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

MAY 27 2010

Mr. Ivan Greenberg
No. 5A
2105 Wallace Avenue
Bronx, NY 10462

Re: Request No. 1147563

Dear Mr. Greenberg:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on May 20, 2010.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **2010-2008**. Please mention this number in any future correspondence to this Office regarding this matter.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal you may contact me at the number above.

Sincerely,

Priscilla Jones
Supervisory Administrative Specialist

file



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

May 5, 2010

DR. IVAN GREENBERG
NUMBER 5A
2105 WALLACE AVENUE
BRONX, NY 10462

FOIPA Request No.: 1147563- 000
Subject: GHETTO INFORMANT PROGRAM

Dear Dr. Greenberg:

The records that you have requested were previously processed under the provisions of the Freedom of Information Act for another requester.

Enclosed are 14 pages of documents pertaining to your request and a copy of the Explanation of Exemptions. If you want the document reprocessed under current guidelines, please submit a new FOIA request.

Additionally, based on the information, we conducted a search of the Electronic Surveillance (ELSUR) index. We were unable to identify responsive records.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number assigned to your request so that it may be identified easily.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over the signature line.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

Sobonya, David P.

From: igreen7047@aol.com
Sent: Sunday, April 25, 2010 4:27 AM
To: FOIPA_Request
Subject: FOIA request -- Ghetto Informant Program

Federal Bureau of Investigation
Records Information/Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

April 25, 2010

Dear FBI Records Section:

This is a request under the Freedom of Information and Privacy Acts.

I request a complete and thorough search of all filing systems and locations for all records maintained by your agency pertaining to and/or captioned:

Ghetto Informant Program

(The FBI created this program in 1967. It existed until the early 1970s.)

This request specifically includes where appropriate "main" files and "see references," including but not limited to numbered and lettered sub files and control files. I also request a search of the Electronic Surveillance (ELSUR) Index, or any similar technique for locating records of electronic surveillance. I request that all records be produced with the administrative pages. I wish to be sent copies of "see reference" cards, abstracts, search slips, including search slips used to process this request, file covers, multiple copies of the same documents if they appear in a file, tapes of any electronic surveillance, photographs, and logs of physical surveillance (FISUR). Please place missing documents on "special locate."

Please provide the material to me in an electronic form on CD-ROM.

Sincerely,

Dr. Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
(718) 928-8228
lgreen7047@aol.com

4/26/2010



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

SEP 26 2011

Ivan Greenberg, PhD
No. 204
4005 Postgate Terrace
Silver Spring, MD 20906

Re: Appeal No. AP-2011-02794
Request No. 1167443
SRO:CDT

Dear Dr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to yourself.

The Freedom of Information Act provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. After carefully considering your appeal, I am affirming the FBI's action on your request. To the extent that your request seeks access to records that would either confirm or deny an individual's placement on any government watch list, I am affirming the FBI's action in refusing to confirm or deny the existence of any such records responsive to your request. The FBI properly refused to confirm or deny the existence of such information because such information, if it exists, is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(E). This provision concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures for law enforcement investigations or prosecutions. This response should not be taken as an indication that records do or do not exist. Rather, this is the standard response made by the FBI.

As to any other records, the FBI informed you that it could locate no main files responsive to your request in its automated or electronic surveillance indices. I have determined that the FBI's response was correct and that it conducted an adequate, reasonable search for records responsive to your request.

Finally, please note that the FBI located a file pertaining to your civil litigation, but it did not process this file because it is not an investigatory file, and you should already have copies of that litigation. If you wish to obtain additional copies of this file, I suggest that you make a new request directly to the FBI. The FBI will send any and all releasable records to you directly, subject to any fees.

FILE COPY

Please be advised that this Office's decision was taken only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the actions of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in cursive script that reads "Caroline Smith for".

Janice Galli McLeod
Associate Director



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

70 9/19

Final SRO
9/15/11

Ivan Greenberg, PhD
No. 204
4005 Postgate Terrace
Silver Spring, MD 20906

Re: Appeal No. AP-2011-02794 ✓
Request No. 1167443 ✓
SRO:CDT

Dear Dr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to yourself.

The Freedom of Information Act provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. After carefully considering your appeal, I am affirming the FBI's action on your request. To the extent that your request seeks access to records that would either confirm or deny an individual's placement on any government watch list, I am affirming the FBI's action in refusing to confirm or deny the existence of any such records responsive to your request. The FBI properly refused to confirm or deny the existence of such information because such information, if it exists, is protected from disclosure under the Freedom of Information Act pursuant to 5 U.S.C. § 552(b)(7)(E). This provision concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures for law enforcement investigations or prosecutions. ←

This response should not be taken as an indication that records do or do not exist. Rather, this is the standard response made by the FBI.

As to any other records, the FBI informed you that it could locate no main files responsive to your request in its indices. I have determined that the FBI's response was correct and that it conducted an adequate, reasonable search for records responsive to your request.

Finally, please note that the FBI located a file pertaining to your civil litigation, but it did not process this file because it is not an investigatory file, and you should already have copies of that litigation. If you wish to obtain additional copies of this file, I suggest that you make a new request directly to the FBI. The FBI will send any and all releasable records to you directly, subject to any fees.

Please be advised that this Office's decision was taken only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and

✓
page
1 of 1

-2-

analyzed your appeal, your underlying request, and the actions of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Janice Galli McLeod
Associate Director

BLITZ FORM

APPEAL NO.	COMPONENT	REQUEST NO.	OIP ATTORNEY	SUBMITTED ON:
11-02794	FBI	1167443	CDT	09/13/11

REQUEST:

REQUEST DATE	REQUESTER NAME	PRISONER	ATTORNEY
Dated: 05/29/11 Rec'd:	Greenberg, Ivan	NO	NO
SUBJECT OF REQUEST	AR on self (asks for "see references")		

AGENCY RESPONSE:

DATE	ACTION	REV'D	RIF	RIP	WIF	REFERRED	OTHER
06/06/11	No records/terror Glomar						
FOIA	7(e)					PA	
SEARCH NOTES	(b) (5)						

APPEAL:

DATE OF APPEAL	Dated: 08/01/11 Rec'd: 08/11/11 Post: 08/04/11	AGENCY CONTACT		PHONE NUMBER			
Fee Issues?	YES/NO		Timely?	YES/NO			
ARGUMENTS ON APPEAL	Contests search						
DISCUSSION	(b) (5), (b) (6), (b) (7)(C)						

AG GUIDELINES CONSIDERATION	
-----------------------------	--

RECOMMENDATION	(b) (5)
-----------------------	---------

REVIEWER COMMENTS SP 0	(b) (5)
DATE: 9/15/11	
ATTORNEY FOLLOW-UP TO REVIEWER COMMENTS	
DATE:	

2011-02794

FOIA
(A)
FBI

COT

Director
Office of Information Policy
U.S. Department of Justice
1425 New York Ave., NW
Suite 11050
Washington, DC 20530-0001

Freedom of Information Appeal

FOIPA Request No.: 1167443-000
Subject: Greenberg, Ivan

RECEIVED
AUG 11 2011
Office of Information Policy

Aug. 1, 2011

This letter is an appeal under the Freedom of Information and Privacy Acts.

In a letter dated May 29, 2011, I made a records request to the FBI for records on myself. (See enclosure.)

In a letter dated June 6, 2011, David M. Hardy responded to my request and indicated there were no records. (See enclosure.)

I believe this determination by the FOIA office of the FBI is in error.

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years ago, I also wrote Glen A. Fine, an Inspector General at the U.S. Justice Department, to request that his office investigate the violation of civil liberties I experience at the hands of the FBI.

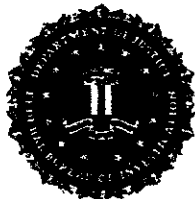
I am available to discuss the FBI investigation of me by phone or in person if you believe this is would be productive.

I look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ivan Greenberg".

Ivan Greenberg, PhD
4005 Postgate Terrace #204
Silver Spring, MD 20906
(718) 928-8228
igreen7047@aol.com



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

June 6, 2011

MR. IVAN GREENBERG
NUMBER 204
4005 POSTDATE TERRACE
SILVER SPRING, MD 20906

FOIPA Request No.: 1167443- 000
Subject: GREENBERG, IVAN

Dear Mr. Greenberg:

This responds to your Freedom of Information/Privacy Acts (FOIPA) request.

Based on the information you provided, we conducted a search of the indices to our Central Records System. We were unable to identify responsive main file records. If you have additional information pertaining to the subject that you believe was of investigative interest to the Bureau, please provide us the details and we will conduct an additional search.

To the extent your FOIPA request seeks access to records that would either confirm or deny an individual's placement on any government watch list, please be advised that the U.S. Government can neither confirm nor deny whether a particular person is on any terrorist watch list. Maintaining the confidentiality of government watch lists is necessary to achieve the objectives of the U.S. Government, as well as to protect the privacy of individuals who may be on a watch list for a limited time and later removed. If the U.S. Government revealed who was listed on any government watch list, terrorists would be able to take actions to avoid detection by government authorities. Thus, pursuant to the Freedom of Information Act (FOIA), Title 5 U.S.C. § 552 exemption (b)(7)(E), the FBI can neither confirm nor deny the existence of certain records which would tend to indicate whether an individual is or ever was listed on any government terrorist watch list.

A search of electronic surveillance indices has been conducted and no responsive record which indicates that your subject was the target of an electronic surveillance was located.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Enclosed for your information is a copy of the FBI File Fact Sheet.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is located below the "Sincerely yours," text.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure

IVAN GREENBERG

POLITICS AND ART

SUNDAY, MAY 29, 2011



FOIA records request to FBI on self

Federal Bureau of Investigation

FOI/PA Request

Records Information/Dissemination Section

170 Marcel Drive

Winchester, VA 22602-4843

May 29, 2011

Dear FBI Records Section:

This is a noncommercial request under the Freedom of Information and Privacy Acts.

I request a complete and thorough search of all filing systems and locations for all records maintained by your agency pertaining to and/or captioned:

Ivan J. Greenberg

This is a request for records on myself.

By way of background, I am a former college history professor and the author of a recent book on the FBI, *The Dangers of Dissent: The FBI and Civil Liberties since 1965* (Lanham, MD: Rowman and Littlefield/Lexington Books 2010). During the past decade, I filed numerous FOIA requests with your office for my research. I initiated the FOIA lawsuit, *Greenberg V. FBI*, in 2008.

I have provided below a list of prior and current addresses where I have resided since 1992. Please check the local FBI field offices in these areas for records on me. I enclosed a recent resume to help you locate any records. I also enclosed the U.S. Justice Department Certification of Identity form.

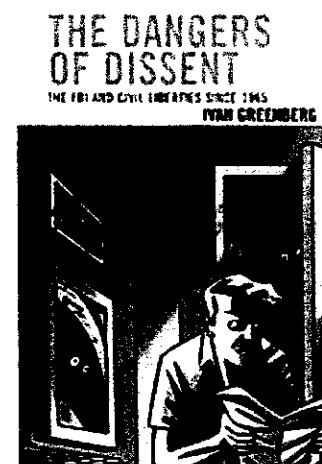
--217 West 106 St. #5E
New York, NY 10025

...blogspot.com/.../foia-records-request...

MY ART BOOKSTORE

Blurb

THE DANGERS OF DISSENT: THE FBI AND CIVIL LIBERTIES SINCE 1965



MEANDERINGS: A COLLECTION OF POETIC VERSE



"One Big Database" and "Good Morning"

INEQUITY IN EDUCATION: A HISTORICAL PERSPECTIVE

--1555 Oak St. #6
San Francisco, CA 94117

--1472 La Playa St.
San Francisco, CA 94122

--2105 Wallace Ave. #5A
Bronx, NY 10462

--102 W. Main St. (Hoover House)
West Branch, IA 52358

--4005 Postgate Terrace #204
Silver Spring, MD 20906

This request specifically includes where appropriate "main" files and "see references," including but not limited to numbered and lettered sub files and control files. I also request a search of the Electronic Surveillance (ELSUR) Index, or any similar technique for locating records of electronic surveillance. I request that all records be produced with the administrative pages. I wish to be sent copies of "see reference" cards, abstracts, search slips, including search slips used to process this request, file covers, multiple copies of the same documents if they appear in a file, tapes of any electronic surveillance, photographs, and logs of physical surveillance (FISUR). Please place missing documents on "special locate."

Please provide the material to me in an electronic form on CD-ROM.

Sincerely,

Dr. Ivan Greenberg
4005 Postgate Terrace #204
Silver Spring, MD 20906
igreen7047@aol.com

POSTED BY IVAN GREENBERG AT 9:00 AM



o COMMENTS:

[Post a Comment](#)

[Newer Post](#)

[Home](#)

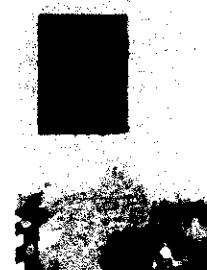
[Older Post](#)

[Subscribe to: Post Comments \(Atom\)](#)



Chapter 7: Vocational Education, Work Culture, and the Children of European Immigrants during the 1930s

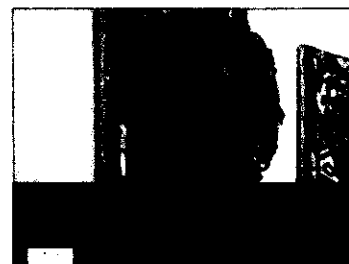
THE 1980S: A CRITICAL AND TRANSITIONAL DECADE



Chapter 2: Reagan Revives FBI Spying

ART INTERVIEW

🕒 IvanG's videos



Director
Office of Information Policy
U.S. Department of Justice
1425 New York Ave., NW
Suite 11050
Washington, DC 20530-0001

* Dup *

FOIA
(A)
FBI

Freedom of Information Appeal

FOIPA Request No.: 1167443-000

Subject: Greenberg, Ivan

Aug. 1, 2011

This letter is an appeal under the Freedom of Information and Privacy Acts.

In a letter dated May 29, 2011, I made a records request to the FBI for records on myself. (See enclosure.)

In a letter dated June 6, 2011, David M. Hardy responded to my request and indicated there were no records. (See enclosure.)

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Since about 1995, the FBI has conducted obvious and aggressive surveillance against me including threats and the use of informers in a broad variety of settings, including in my immediate family. I believe much of the FBI investigation of me crosses the line from intelligence gathering to criminal harassment. I have dozens of incident notes of FBI harassment from 1995 to the present. I have contacted in the past several lawyers, including the American Civil Liberties Union, in an attempt to sue the FBI for civil rights violations against me. Several

years ago, I also wrote Glen A. Fine, an Inspector General at the U.S. Justice Department, to request that his office investigate the violation of civil liberties I experience at the hands of the FBI.

I am available to discuss the FBI investigation of me by phone or in person if you believe this is would be productive.

I look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ivan Greenberg".

Ivan Greenberg, PhD
4005 Postgate Terrace #204
Silver Spring, MD 20906
(718) 928-8228
igreen7047@aol.com



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

June 6, 2011

MR. IVAN GREENBERG
NUMBER 204
4005 POSTDATE TERRACE
SILVER SPRING, MD 20906

FOIPA Request No.: 1167443- 000
Subject: GREENBERG, IVAN

Dear Mr. Greenberg:

This responds to your Freedom of Information/Privacy Acts (FOIPA) request.

Based on the information you provided, we conducted a search of the indices to our Central Records System. We were unable to identify responsive main file records. If you have additional information pertaining to the subject that you believe was of investigative interest to the Bureau, please provide us the details and we will conduct an additional search.

To the extent your FOIPA request seeks access to records that would either confirm or deny an individual's placement on any government watch list, please be advised that the U.S. Government can neither confirm nor deny whether a particular person is on any terrorist watch list. Maintaining the confidentiality of government watch lists is necessary to achieve the objectives of the U.S. Government, as well as to protect the privacy of individuals who may be on a watch list for a limited time and later removed. If the U.S. Government revealed who was listed on any government watch list, terrorists would be able to take actions to avoid detection by government authorities. Thus, pursuant to the Freedom of Information Act (FOIA), Title 5 U.S.C. § 552 exemption (b)(7)(E), the FBI can neither confirm nor deny the existence of certain records which would tend to indicate whether an individual is or ever was listed on any government terrorist watch list.

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Enclosed for your information is a copy of the FBI File Fact Sheet.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is located below the "Sincerely yours," text.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure

Federal Bureau of Investigation
FOI/PA Request
Records Information/Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

copy

May 29, 2011

Dear FBI Records Section:

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I request a complete and thorough search of all filing systems and locations for all records maintained by your agency pertaining to and/or captioned:

Ivan Greenberg

This is a request for records on myself.

By way of background, I am a former college history professor and the author of a recent book on the FBI, The Dangers of Dissent: The FBI and Civil Liberties since 1965 (Lanham, MD: Rowman and Littlefield/Lexington Books 2010). During the past decade, I filed numerous FOIA requests with your office for my research. I initiated the FOIA lawsuit, *Greenberg V. FBI* in 2008.

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-- 1555 Oak St. #6
San Francisco, CA 94117

--1472 La Playa St.
San Francisco, CA 94122

--2105 Wallace Ave. #5A
Bronx, NY 10462

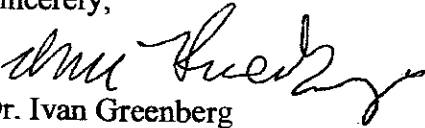
--102 W. Main St. (Hoover House)
West Branch, IA 52358

—4005 Postgate Terrace #204
Silver Spring, MD 20906

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Please provide the material to me in an electronic form on CD-ROM.

Sincerely,



Dr. Ivan Greenberg
4005 Postgate Terrace #204
Silver Spring, MD 20906
(718) 928-8228
igreen7047@aol.com



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

June 6, 2011

MR. IVAN GREENBERG
NUMBER 204
4005 POSTDATE TERRACE
SILVER SPRING, MD 20906

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David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure



FBI FILE FACT SHEET

- The primary function of the FBI is law enforcement.
The FBI does not keep a file on every citizen of the United States
- **The FBI was not established until 1908 and we have very few records prior to the 1920's.**
- **FBI files generally contain reports** of FBI investigations of a wide range of matters, including counterterrorism, counter-intelligence, cyber crime, public corruption, civil rights, organized crime, white-collar crime, major thefts/violent crime, and applicants.
- **The FBI does not issue clearances or nonclearances for anyone other than its own personnel or persons having access to FBI facilities.** Background investigations for security clearances are conducted by many different Government agencies. Persons who received a clearance while in the military or employed with some other government agency should contact that entity. Most government agencies have websites which are accessible on the internet which have their contact information.
- **An identification record or "rap sheet" is NOT the same as an FBI "file"** – it is a listing of information taken from fingerprint cards and related documents submitted to the FBI in connection with arrests, federal employment, naturalization or military service. The subject of a "rap sheet" may obtain a copy by submitting a written request to FBI, Criminal Justice Information submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. The subject of a "rap sheet" may obtain a copy by submitting a written request to FBI, Criminal Justice Information Services (CJIS) Division, Record Request, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. Along with a specific written request, the individual must submit a new full set of his/her fingerprints in order to locate the record, establish positive identification, and ensure that an individual's records is not disseminated to an unauthorized person. The fingerprint submission must include the subject's name, date of birth and place of birth. There is a required fee of \$18 for this service which must be submitted in the form of a money order or certified bank check made payable to the Treasury of the United States. A credit card payment option is also available. Forms for this option and additional directions may be obtained by accessing the FBI Web site at www.fbi.gov/hq/cjisd/fprequest.htm. States.
- **The National Name Check Program (NNCP)** conducts a search of the FBI's Universal Index (UNI) to identify any information contained in FBI records that may be associated with an individual and provides the results of that search to the requesting Federal, State or local agency. For the NNCP, a name is searched in a multitude of combinations and phonetic spellings to ensure all records are located. The NNCP also searches for both "main" and "cross reference" files. A main file is an entry that carries the name corresponding to the subject of a file while a cross reference is merely a mention of an individual contained in a file. The results from a search of this magnitude can result in several "hits" and "idents" on an individual. In each instance where UNI has identified a name variation or reference, information must be reviewed to determine whether it is applicable to the individual in question.
- **The Record/Information Dissemination Section/Freedom of Information-Privacy Act (FOIPA)** search for records provides copies of FBI files relevant to a FOIPA request for information. FOIPA provides responsive documents to requestors seeking "reasonably described information." For a FOIPA search, the subject name, event, activity, business, or event is searched to determine whether there is an investigative file associated with the subject. This is called a "main file search" and differs from the **NNCP** search.

FOR GENERAL INFORMATION ABOUT THE FBI, VISIT OUR WEBSITE AT
www.fbi.gov

3-20-2009

Federal Bureau of Investigation
FOI/PA Request
Records Information/Dissemination Section
170 Marcel Drive
Winchester, VA 22602-4843

May 29, 2011

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San Francisco, CA 94122

--2105 Wallace Ave. #5A
Bronx, NY 10462

--102 W. Main St. (Hoover House)
West Branch, IA 52358

--4005 Postgate Terrace #204
Silver Spring, MD 20906

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Please provide the material to me in an electronic form on CD-ROM.

Sincerely,



Dr. Ivan Greenberg
4005 Postgate Terrace #204
Silver Spring, MD 20906
(718) 928-8228
igreen7047@aol.com



Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ Ivan Greenberg

Citizenship Status ² USA Social Security Number ³ 087-58-2513

Current Address 4005 Postgate Terrace #204, Silver Spring, MD

Date of Birth 2-17-1962 Place of Birth Ithaca, NY 20906

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ [Signature] Date May 29, 2011

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Print or Type Name

¹ Name of individual who is the subject of the record(s) sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

Dr. Ivan Greenberg
4005 Westgate Terrace #204
Silver Spring, MD 20906
(718) 928-8228
lgreen 7047@aol.com

EMPLOYMENT

Adjunct Instructor; Adjunct Assistant Professor
Monroe College, Bronx, NY (1997-2001)
Empire State College, NY, NY (1998-2000)
Borough of Manhattan Community College, NY, NY (1997)
John Jay College of Criminal Justice, NY, NY (1992-1995)
Hunter College, NY, NY (1992, 1994)
San Francisco State University (1991)
San Jose State University (1991)

PUBLICATIONS/WORKS IN PROGRESS

Surveillance in America: Critical Essays on the FBI, 1920 to the Present (320 pages written)

The Dangers of Dissent: The FBI and Civil Liberties since 1965 (Lanham, MD: Rowman and Littlefield/Lexington Books, October 2010)

"Schools for Justice," in Ira Bogotch and Carolyn Shields, eds., International Handbook of Social Injustice and Educational Leadership (Springer, forthcoming 2012).

"A White Man in the Colored Bronx," in Teresa A. Booker, ed., Race in Urban Communities (forthcoming, 2012)

"The FBI and The Making of the Terrorist Threat," Radical History Review (issue 111, forthcoming August 2011)

"Reagan Revives FBI Spying," in Kimberly R. Moffitt and Duncan Campbell, eds., The 1980s: A Critical and Transitional Decade (Lanham, MD: Lexington Books, December 2011), 43-64.

"Schooling, Family, and the Ethnic Working Class Before World War Two," Transformations: The Journal of Inclusive Scholarship and Pedagogy (Winter 2010): 154-160.

"Good Morning" and "One Big Database," in Meanderings: A Collection of Poetic Verse (Clarksville: Diversion Press, 2009): 40-41, 54-55.

"Vocational Education, Work Culture, and the Children of European Immigrants during the 1930s," in Debra Meyers and Burke Miller, eds., Inequity in Education: A Historical Perspective (Lanham, MD: Lexington Books, 2009): 147-163.

"Vocational Education, Work Culture, and the Children of Immigrants in 1930s Bridgeport," Journal of Social History, 41 (Fall 2007): 149-160.

"Government Suppression of Social Activism," in Gary L. Anderson and Kathryn Kerr, eds., Encyclopedia of Activism and Social Justice (Thousand Oaks, CA: Sage Publications, 2007), 632-636.

"Federal Bureau of Investigation," in David L. Hudson, David A. Schultz, and John R. Vile, eds., Encyclopedia of the First Amendment (Washington, DC: Congressional Quarterly Press, 2008).

"Federal Bureau of Investigation," in Nikki Brown and Barry Stentiford, eds., Jim Crow Encyclopedia (Westport, Ct: Greenwood Press, 2008), 294-298.

"Ivan Greenberg," in New Art International 2008 (Woodstock, NY: Book Art Press, 2008), 130-131.

"Ivan Greenberg," in New Art International 1996 (Woodstock, NY: Book Art Press, 1996), 12-13.

"Class Culture and Generational Change: Immigrant Families in Two Connecticut Industrial Cities during the 1930s," (Ph.D. Dissertation, City University of New York, 1990).

"Reformers, Workers, and the Half-Day Mill School Movement of the 1870s," in Martin Kaufman, ed., Education in Massachusetts: Selected Essays (Westfield, MA: Institute for Massachusetts Studies, 1989), 63-77.

"Francis Perkins" and "Eugene V. Debs" in Robert Muccigrosso, ed., Research Guide to American Biography Vol. I, III (Washington, DC: Beacham Publishing, 1989), 377-381, 1204-1207.

"Labor and the Media: How and Why They Grew Estranged," Occasional Paper No. 2, Center for Labor-Management Policy Studies, City University of New York (Spring 1989), 1-9.

BLOG ARTICLES

"Surveillance Directed at Critics of the FBI," May 18, 2011, Rowman and Littlefield Publishing Company, <http://rowmanblog.typepad.com/rowman/2011/05/surveillance-directed-at-critics-of-the-fbi.html>.

"Deep Throat and Government Records," History News Network, Dec. 6, 2010, <http://historynewsnetwork.gmu.edu/roundup/archives/1/2010/12/#134274>.

"Civil Rights Photojournalist Named as FBI Spy," Sept. 20, 2010, Rowman and Littlefield Publishing Group, <http://rowmanblog.typepad.com/rowman/2010/09/civil-rights-photojournalist->

[named-as-fbi-spy.html](#).

PAPERS READ

"Labor Views the 'World of Tomorrow': The 1939 World's Fair." Paper presented at the Northeast Popular Culture/American Cultural Association meeting, Boston, Nov. 7, 1992.

"Creating Culture: Worker Poems and the CIO Press of the 1930s." Paper presented at the American Historical Association Conference, Pacific Coast Branch, Oregon State University, Aug. 16, 1992.

"At the Center: Sit-Down Strikes by U.S. Women Workers, 1936-1937." Paper presented at the 22nd Annual Conference of the Western Association of Women Historians, Asilomar, CA, June 2, 1991.

"The Early CIO and the Origins of Working-Class Paid Vacations." Paper presented at the 16th Annual Southwest Labor Studies Conference, California State University, Dominguez Hills, April 20, 1990.

"Neighborhood Change and Class Feelings: Bridgeport, Connecticut, during the Great Depression." Paper presented at the Warren Susman Memorial Graduate History Conference, Rutgers University, April 9, 1989.

"The Children of Immigrants and the Rise of the CIO: A Portrait of Union Leaders in New Britain, Connecticut, 1937-1939." Paper presented at the 10th Annual Labor History Conference, Wayne State University, Oct. 21, 1988.

"Reformers, Workers, and the Half-Day Mill School Movement of the 1870s." Paper presented at History of Education in Massachusetts symposium, Westfield State College, April 23, 1988.

ART EXHIBITS (select)

Solo Show, "The Head Series" (2009)
Aeon Logic Art Gallery, Brooklyn NY.

Group Show, "Correlation"
A-forest Gallery, New York, NY (2010)

Group Show, "Art of Record, II" (2009)
APW Gallery, Long Island City, NY

Group Show, "The Pescado Project" (1998)
B.A.I. Gallery, Barcelona, Spain

Solo Show, "Xpress" (1995)
Limner Gallery, New York, NY

WEB SITES

EDUCATION

Ph.D. History (1990)

Graduate Center

City University of New York

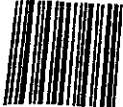
New York, NY

B.A. cum laude, History (1984)

Cornell University

Ithaca, NY

Dr. Ivan Greenberg
16005 Rustyde Terrace
Silver Spring, MD 20906



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U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

AUG 18 2011

Ivan Greenberg, PhD
No. 204
4005 Postgate Terrace
Silver Spring, MD 20906

Re: Request No. 1167443

Dear Dr. Greenberg:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on August 11, 2011.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **AP-2011-02794**. Please mention this number in any future correspondence to this Office regarding this matter.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal you may contact me at the number above.

Sincerely,

Priscilla Jones

Supervisory Administrative Specialist

FILE COPY



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

MAR 20 2013

Ivan Greenberg, PhD
No. M803
25 East Wayne Avenue
Silver Spring, MD 20901

Re: Appeal No. AP-2012-02857
Request No. 1180083
ADW:MWH

Dear Dr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to FBI File No. 62-46855.

After carefully considering your appeal, I am affirming the FBI's action on your request. The Freedom of Information Act provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. The FBI properly withheld certain information because it is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(4), which concerns trade secrets and commercial or financial information obtained from a person that is privileged or confidential;

5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties;

5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties; and

5 U.S.C. § 552(b)(7)(D), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to disclose the identities of confidential sources and information furnished by such sources.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

FILE COPY

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 301-837-1996; toll free at 1-877-684-6448; or facsimile at 301-837-0348.

Sincerely,

Sean R. O'Neill
Chief
Administrative Appeals Staff

By: 

Anne D. Work
Senior Counsel
Administrative Appeals Staff

BLITZ FORM

APPEAL NO.	COMPONENT	REQUEST NO.	OIP ATTORNEY	SUBMITTED ON:
AP-2012-02857	FBI	1180083	MWH	2/20/13

REQUEST:

REQUEST DATE	REQUESTER NAME	PRISONER	ATTORNEY
Dated: 11/23/11 Rec'd: Same	Ivan Greenberg, PhD	No.	
SUBJECT OF REQUEST	Sought access to File No. 62-46855.		

AGENCY RESPONSE:

DATE	ACTION	REV'D	RIF/RIP	RIP	WHF	REFERRED	OTHER
5/29/12	Partial Release	1,176	766		410		
FOIA	(b)(4); (b)(6); (7)(C); (7)(D)					PA	
SEARCH NOTES	Not at issue – interim release and only redactions are at issue.						

APPEAL:

DATE OF APPEAL	Dated: 7/7/12 Rec'd: 7/12/12	AGENCY CONTACT		PHONE NUMBER			
Fee Issues?	YES/NO		Timely?	YES/NO			
ARGUMENTS ON APPEAL	Limited Appeal – Appeal limited to the redactions made to the records produced in the interim release. <i>du zu</i>						
DISCUSSION	(b) (5)						

AG GUIDELINES CONSIDERATION	(b) (5)
--	---------

RECOMMENDATION	(b) (5)
-----------------------	---------

REVIEWER COMMENTS	
DATE:	
ATTORNEY FOLLOW-UP TO REVIEWER COMMENTS	
DATE:	



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

JUL 20 2012

Dr. Ivan Greenberg
No. M803
25 East Wayne Avenue
Silver Spring, MD 20901

Re: Request No. 1180083

Dear Dr. Greenberg:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on July 12, 2012.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **AP-2012-02857**. Please mention this number in any future correspondence to this Office regarding this matter.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal you may contact me at the number above.

Sincerely,

A handwritten signature in black ink, appearing to read "Priscilla Jones", written over a horizontal line.

Priscilla Jones
Supervisory Administrative Specialist

FILE COPY

July 7, 2012

Director
Office of Information and Privacy
U.S. Department of Justice
1425 New York Ave., NW, Suite 11050
Washington, DC 20530-0001

AP-2012-02857

FOIA
FBI

BT

Re: Freedom of Information Act Appeal

RECEIVED

JUL 12 2012

Office of Information and Privacy

Dear Director:

This is an appeal under the Freedom of Information Act.

This appeal concerns the FBI's Book Review File (62-46855)
FOIPA # 1180083-000

In an interim release of documents dated May 29, 2012, the FBI reviewed 1,176 pages and 768 pages were released.

I do not believe the withholding of these pages (regarding material from the early 1960s) is warranted. I am appealing the withholding of these materials.

Please also note that over the last few months, I have received half a dozen anonymous threats of violence about the content of my writing. People on the street says things to me such as, "They are going to kill you. It is because of your book." Several neighbors in my building also make similar statements in the hallway outside the front door of my rental apartment.

Please note I am the author of two recent historical books about the FBI and civil liberties. They are titled:


The Dangers of Dissent: The FBI and Civil Liberties since 1965 (Lanham, MD; Lexington books 2010).

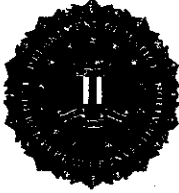
Surveillance in America: Critical Analysis of the FBI, 1920 to the Present (Lanham, MD: Lexington Books, 2012).

I do not know who is making these threats. It is my firm belief that the FBI falsely has investigated me for domestic terrorism for more than a decade and the threats are related to that investigation.

These threats have caused me to limit my use of the Freedom of Information Act, which is central to the research for my writing.

Sincerely,


Ivan Greenberg, PhD
25 E. Wayne Ave. #M803
Silver Spring, MD 20901
718-928-8228



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

May 29, 2012

MR. IVAN GREENBERG
NUMBER M803
25 EAST WAYNE AVENUE
SILVER SPRING, MD 20901

Subject: BOOK REVIEW FILE (62-46855)

FOIPA No. 1180083-000

Dear Mr. Greenberg:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Deletions have been made to protect information which is exempt from disclosure, with the appropriate exemptions noted on the page next to the excision. In addition, a deleted page information sheet was inserted in the file to indicate where pages were withheld entirely. The exemptions used to withhold information are marked below and explained on the enclosed Form OPCA-16a:

Section 552

- ☐ (b)(1)
- ☐ (b)(2)
- ☐ (b)(3) _____
- _____
- _____
- ☒ (b)(4)
- ☐ (b)(5)
- ☒ (b)(6)

- ☐ (b)(7)(A)
- ☐ (b)(7)(B)
- ☒ (b)(7)(C)
- ☒ (b)(7)(D)
- ☐ (b)(7)(E)
- ☐ (b)(7)(F)
- ☐ (b)(8)
- ☐ (b)(9)

Section 552a

- ☐ (d)(5)
- ☐ (j)(2)
- ☐ (k)(1)
- ☐ (k)(2)
- ☐ (k)(3)
- ☐ (k)(4)
- ☐ (k)(5)
- ☐ (k)(6)
- ☐ (k)(7)

1,176 page(s) were reviewed and 766 page(s) are being released.

☒ Document(s) were located which originated with, or contained, information concerning other Government agency(ies) [OGA]. This information has been:

- ☐ referred to the OGA for review and direct response to you.
- ☒ referred to the OGA for consultation. The FBI will correspond with you regarding this information when the consultation is finished.

☐ In accordance with standard FBI practice, this response neither confirms nor denies the existence of your subject's name on any watch lists.

☒ You have the right to appeal any denials in this release. Appeals should be directed in writing to the Director, Office of Information Policy, U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FDIPA Number assigned to your request so that it may be easily identified.

☐ The enclosed material is from the main investigative file(s) in which the subject(s) of your request was the focus of the investigation. Our search located additional references, in files relating to other individuals, or matters, which may or may not be about your subject(s). Our experience has shown, when ident, references usually contain information similar to the information processed in the main file(s). Because of our significant backlog, we have given priority to processing only the main investigative file(s). If you want the references, you must submit a separate request for them in writing, and they will be reviewed at a later date, as time and resources permit.

☒ See additional information which follows.

Sincerely yours,



David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

Enclosed is the first interim release of documents pertaining to the subject of your Freedom of Information Act (FOIA) request, Book Review File. These documents have been processed from FBI Headquarters file 62-46855, sections 1, 2 and 3 and from Enclosures Behind File (EBF) 10, 73 and 74.

Per your request, the documents have been copied to a CD. No fee is being assessed at this time. When we make the next interim release, you will be billed for the \$5.00 fee associated with this release as well as the \$15.00 fee for the next release, for a total of \$20.00.

There are approximately 3,685 pages of documents remaining to be processed and released for this FOIA request.

Sobonya, David P.

From: igreen7047@aol.com
Sent: Wednesday, November 23, 2011 4:12 AM
To: FOIPA_Request
Subject: FOIPA request for FBI records -- Book Review File

Dear FBI Records Section:

This email is a request under the Freedom of Information and Privacy Acts.

I request a complete and thorough search of all filing systems and locations for all records maintained by your agency pertaining to and/or captioned:

Book Review File

The FBI file number for this file is: 62-46855.

This file contains book reviews written by FBI personnel.

This request specifically includes where appropriate "main" files and "see references," including but not limited to numbered and lettered sub files and control files. I also request a search of the Electronic Surveillance (ELSUR) Index, or any similar technique for locating records of electronic surveillance. I request that all records be produced with the administrative pages. I wish to be sent copies of "see reference" cards, abstracts, search slips, including search slips used to process this request, file covers, multiple copies of the same documents if they appear in a file, tapes of any electronic surveillance, photographs, and logs of physical surveillance (FISUR). Please place missing documents on "special locate."

Please provide the material to me in an electronic form on CD-ROM.

Please also look at cross references.

Sincerely,

Ivan Greenberg, PhD
4005 Postgate Terrace #204
Silver Spring, MD 20906
718. 928-8228

OIP Guidance



Copyrighted Materials and the FOIA

One of the most difficult business-related issues to arise under the Freedom of Information Act is the proper treatment of copyrighted materials that are maintained by federal agencies. Such materials can come into an agency's possession in a variety of ways, including under the conditions of federal grants, pursuant to federal regulatory requirements, and even through unsolicited submissions. The question of their protected status can arise in processing any FOIA access request which encompasses a copyrighted record, or even possibly in a "reverse" FOIA context in which an objection to disclosure is raised by a copyright holder. As neither the FOIA nor the Copyright Act expressly addresses whether agencies must disclose a copyrighted record within the scope of a FOIA request, the design and purposes of both statutes must be considered in resolving this question.

THE COPYRIGHT ACT OF 1976

The Copyright Act of 1976, 17 U.S.C. §§101, *et seq.*, essentially grants the holder of a copyright an exclusive right to reproduce and distribute copies of his work. See 17 U.S.C. §106. Under the Act as revised in 1976, this protection attaches automatically as soon as the work is "fixed" in any tangible medium; neither registration nor any type of designation or notice is necessary to trigger it. See 17 U.S.C. §§102, 405, 408. Thus, the potential for copyright protection exists in virtually every original work of authorship. Despite this sweeping grant of copyright entitlement, however, the revised Copyright Act specifically codifies the common law doctrine of "fair use," which permits the reproduction of copyrighted materials "for purposes such as criticism, comment, news reporting, teaching . . . scholarship, or research" without liability for infringement. 17 U.S.C. §107.

THE COPYRIGHT ACT AND THE FOIA

Although at first glance it might appear that the Copyright Act and the FOIA do not even deal with the same thing, they do potentially conflict. The Copyright Act regulates only the reproduction and distribution of documents, not access to them; it even provides for full public inspection of any copyrighted work registered and deposited with the Copyright Office. See 17 U.S.C. §705(b). Yet the FOIA specifically contemplates document reproduc-

tion as a means of effectuating public access, see 5 U.S.C. §552(a)(4)(A), and plainly requires more than mere document inspection. See, e.g., *Perry v. Block*, 684 F.2d 121, 124 n.14 (D.C. Cir. 1982). Thus, federal agencies are in the difficult position of being subject to potentially conflicting legal obligations: compliance with the FOIA on the one hand, and noninfringement of the rights of copyright holders on the other. See *Weisberg v. Department of Justice*, 631 F.2d 824, 830 & n.39 (D.C. Cir. 1980).

Of course, it should be noted as a threshold matter that the mere fact that a record is copyrighted does not *per se* remove it from "agency record" status under the FOIA. The U.S. Court of Appeals for the D.C. Circuit flatly rejected such a notion in *Weisberg v. Department of Justice*, 631 F.2d at 827-28, in which it held that copyrighted photographs of the scene of Dr. Martin Luther King's assassination kept by the FBI were indeed "agency records" subject to FOIA disclosure. To be sure, it remains possible that the circumstances surrounding an agency's custody of a copyrighted document might amount to sufficient lack of "possession" or "control" to support an argument in a particular case that the document is not an "agency record." See generally *Paisley v. CIA*, 712 F.2d 686, 692-94 (D.C. Cir. 1983); *Wolfe v. HHS*, 711 F.2d 1077, 1079-82 (D.C. Cir. 1983). But absent any such special circumstances, a copyrighted document must be regarded as an "agency record" and the resolution of the problem must be found within the FOIA's exemptions.

EXEMPTION 3

The first FOIA exemption logically to be considered on this issue is Exemption 3, which applies to records "specifically exempted from disclosure by statute . . . provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld." 5 U.S.C. §552(b)(3), as amended. In order to qualify for Exemption 3 protection, though, a statute must be an "explicit nondisclosure" statute. *Irons & Sears v. Dann*, 606 F.2d 1215, 1220 (D.C. Cir. 1979), *cert. denied*, 444 U.S. 1075 (1980). On its face, the Copyright Act simply cannot be considered a "nondisclosure" statute, especially in light of its provision permitting full public inspection of

... Analysis Under Exemption 4

registered copyrighted documents at the Copyright Office. See 17 U.S.C. §705(b). Indeed, there is nothing whatsoever in the statute or its legislative history to suggest that Congress intended it to trigger Exemption 3. To the contrary, a special provision of the Copyright Act, 17 U.S.C. §701(d), specifically excludes from FOIA access all registered documents deposited with the Copyright Office—but *only those* copyrighted documents—which indicates a recognition by Congress that the Copyright Act does not operate as an Exemption 3 statute, because such special protection for deposit copies of copyrighted documents in the Copyright Office would otherwise be unnecessary. Indeed, in the only two cases to have raised the issue it has readily been held that the Copyright Act is not an Exemption 3 statute. See *St. Paul's Benevolent Educational & Missionary Institute v. United States*, 506 F. Supp. 822, 830 (N.D. Ga. 1980); *Weisberg v. Department of Justice*, Civil No. 75-1996, slip op. at 5-6 (D.D.C. Feb. 9, 1978), *aff'd in part, vacated in part & remanded*, 631 F.2d 824 (D.C. Cir. 1980).

EXEMPTION 4

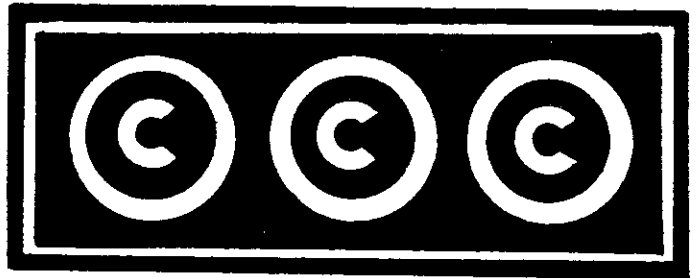
The only appropriate approach for protecting copyrighted documents under the FOIA is through the application of Exemption 4, which protects "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. §552(b)(4). Quite often, a copyrighted document can properly be regarded as consisting in whole or in part of "trade secret" material under the definition of that term, see, e.g., *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983), and can be withheld on that basis. In all other instances, it should be determined whether all or any portion of a copyrighted document can be withheld as exempt under the remaining part of Exemption 4. This requires an analysis of the "commercial value" of the work and the effect that FOIA disclosure would likely have on the copyright holder's potential market.*

Conducting such an analysis under Exemption 4 fully comports with the principles and standards of the Copyright Act. The commercial nature of copyrighted works is fully recognized in the current Copyright Act, in which the copyright holder is given the exclusive right to disseminate his work by sale, lease or rental. See 17 U.S.C. §106. Indeed, the need for protection of the holder's

potential market is specifically included as one of the factors governing the "fair use" doctrine. See 17 U.S.C. §107(4). Additionally, the term "commercial" in the context of Exemption 4 has been interpreted to include all information "pertaining or relating to or dealing with commerce." *American Airlines, Inc. v. National Mediation Board*, 588 F.2d 863, 870 (2d Cir. 1978). Commercially valuable copyrighted works plainly pertain to commerce and thus logically satisfy this requirement of Exemption 4.

ADVERSE MARKET EFFECT

The most commonly dispositive requisite of Exemption 4—a showing of competitive harm necessary to satisfy the exemption's confidentiality requirement under the prevailing standard of *National Parks & Conservation Association v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974)—should be met whenever it is determined that the copyright holder's market for his work would likely be adversely affected by FOIA disclosure. The fact that the work can be acquired elsewhere, albeit at some cost (e.g., by purchase, directly or indirectly, from the copyright holder) should not render it "nonconfidential" under Exemption 4. Indeed, in *Worthington Compressors, Inc. v. Costle*, 662 F.2d 45 (D.C. Cir. 1981), it was held that when requested information is



available elsewhere through some means other than the FOIA, the inquiry as to confidentiality under Exemption 4 must "be expanded to include two considerations: (1) the *commercial value* of the requested information, and (2) the *cost of acquiring* the information through other means." 662 F.2d at 51 (emphasis in original). The D.C. Circuit reasoned that where a commercially valuable document can be acquired elsewhere "only at considerable cost," agency disclosure at mere FOIA duplication costs could easily cause competitive harm to the submitter. *Id.* Providing requesters with such "bargains," at the expense of a copyright holder, was certainly not a result contemplated by Congress when enacting the FOIA. *Cf. id.*

To date, there has been scant judicial authority addressing the status of copyrighted documents under the FOIA and the district court decision in *Weisberg v. Department of Justice*, *supra*, is the only opinion to have considered Exemption 4 protection for such a document. The district judge there found, based upon a perfunctory and somewhat questionable analysis, that the requirements

*Such an analysis can be aided considerably (or in some instances even rendered unnecessary) by the copyright holder's own statement of the value of his work and the nature of the relevant market. Affording the submitter of a copyrighted document the opportunity to make such a statement in objection to disclosure is also good policy and should be done wherever reasonably possible. See *FOIA Update*, June 1982, at 3.

... Application of the 'Fair Use' Defense

of Exemption 4 were not met for the copyrighted photographs at issue there because they were not considered confidential commercial or financial information. See slip op. at 6-7. (That portion of the district judge's opinion was subsequently vacated on appeal on procedural grounds. See 631 F.2d at 831.) As one commentator has suggested, though, such a result seems nonetheless to have been correct in that particular case because the photographs actually had "little commercial value to the copyright holder." Note, *The Applicability of the Freedom of Information Act's Disclosure Requirements to Intellectual Property*, 57 Notre Dame Lawyer 561, 577 (1982); see also *id.* at 573 & n.96. In fact, after the court of appeals remanded the *Weisberg* case in order that the copyright holder might assert any substantial commercial interest, see 631 F.2d at 829-30, the copyright holder did not do so.

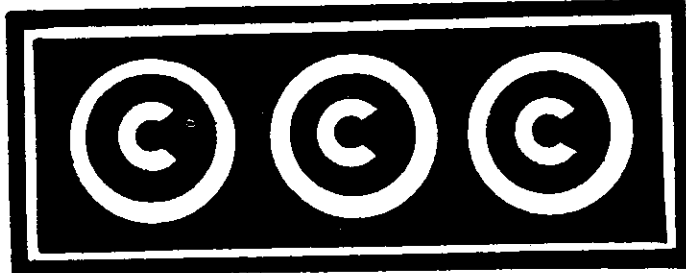
Thus, Exemption 4 stands as a viable means of protecting commercially valuable copyrighted works where FOIA disclosure would have a substantial adverse effect on the copyright holder's potential market. Such use of Exemption 4 is fully consonant with its broad purpose of protecting the commercial interests of those who submit information to the government. See *National Parks & Conservation Association v. Morton*, 498 F.2d at 769. Moreover, as has been suggested, where FOIA disclosure would have an adverse impact on "the potential market for or value of [a] copyrighted work," 17 U.S.C. §107(4), Exemption 4 and the Copyright Act actually embody virtually congruent protection, because such an adverse economic effect will almost always preclude a "fair use" copyright defense. See 57 Notre Dame Lawyer at 577-78. Thus, Exemption 4 should protect such materials in the same instances in which copyright infringement would be found.**

"FAIR USE"

Where it is found that disclosure of a copyrighted document would not have a substantial adverse effect on the copyright holder's potential market, rendering Exemption 4 inapplicable, several considerations strongly compel the conclusion that its release pursuant to the FOIA would not subject the government to liability for copyright infringement.

**In some circumstances, a FOIA requester denied access to a copyrighted document under Exemption 4 might seek to have an agency afford him non-FOIA access on the grounds that the document is publicly available elsewhere and that he wishes simply to inspect it at the agency as a matter of convenience. In such a case (or where the agency wishes to do so on its own initiative), an agency may, as a matter of administrative discretion, permit inspection but not duplication of the document, provided that the document is proven to be publicly available (e.g., at a library or the Copyright Office).

As a threshold matter, the courts have over the years placed a "judicial gloss" on the Copyright Act to generally preclude copyright status for works embodying statutes, opinions, and regulatory matters, based upon the general principle that such governmental matters should properly be in the public domain. See, e.g., *Building Officials & Code Administrators International, Inc. v. Code Technology, Inc.*, 628 F.2d 730, 734-35 (1st Cir. 1980). Additionally, the overriding consideration in determining that a particular use is a "fair use" under the Copyright Act, and thus not a copyright infringement, is the public interest in unrestricted access to the information. See A. Latman & R. Gorman,



Copyright for the Eighties 473 (1981); see also *Rosemont Enterprises, Inc. v. Random House, Inc.*, 366 F.2d 303, 309 (2d Cir. 1966), *cert. denied*, 385 U.S. 1009 (1967). Given that the FOIA is designed to serve the public interest in access to information maintained by the government, see, e.g., *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978), disclosure of nonexempt copyrighted documents under the FOIA should be considered a "fair use."

In fact, reproduction of a copyrighted document by a government entity for a purpose that is not "commercially exploitive of the copyright holder's market," such as copying a work to use as evidence in a judicial proceeding, has been held to constitute a "fair use." *Jartech, Inc. v. Clancy*, 666 F.2d 403, 407 (9th Cir.), *cert. denied*, 103 S.Ct. 58 (1982). Indeed, the leading commentator on copyright law has found it "inconceivable that any court would hold such reproduction to constitute infringement." 3 M. Nimmer, *Nimmer on Copyright* §13.05[D][2] (1983). In the FOIA context, because reproduction is mandated by law and serves to inform the public of the operation of government, it should similarly be unlikely that a court would find the disclosure of nonexempt information to constitute an infringement.

CONCLUSION

In sum, agencies should carefully examine all copyrighted materials encompassed within FOIA requests to determine whether they qualify for Exemption 4 protection as set forth above. As for those copyrighted materials to which Exemption 4 is inapplicable, the position of the Department of Justice is that the release of such materials under the FOIA is a defensible "fair use."

BLITZ FORM

APPEAL NO.	COMPONENT	REQUEST NO.	OIP ATTORNEY	SUBMITTED ON:
AP-2012-03351	FBI	1196508	CDT	02/25/13

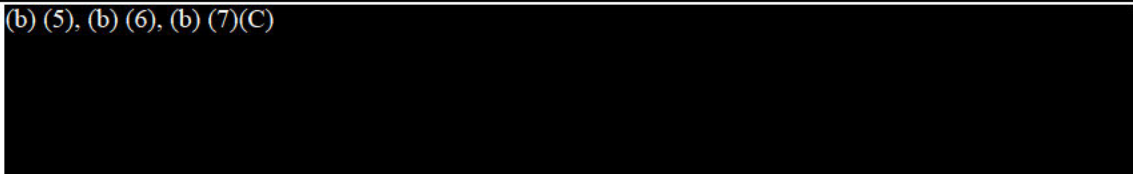
REQUEST:

REQUEST DATE	REQUESTER NAME	PRISONER	ATTORNEY
Dated: 09/06/12 Rec'd:	Greenberg, Ivan	NO	NO
SUBJECT OF REQUEST	Records on Project Megiddo		

AGENCY RESPONSE:

DATE	ACTION	REV'D	RIF	RIP	WIF	REFERRED	OTHER
09//14/12	No records						
FOIA						PA	
SEARCH NOTES	Searched for investigatory records on Project Megiddo						

APPEAL:

DATE OF APPEAL	Dated: 09/30/12 Rec'd: 10/05/12	AGENCY CONTACT		PHONE NUMBER			
Fee Issues?	YES/ <u>NO</u>		Timely?	<u>YES</u> /NO			
ARGUMENTS ON APPEAL	Appeals search						
DISCUSSION	(b) (5), (b) (6), (b) (7)(C) 						

AG GUIDELINES CONSIDERATION	
--	--

RECOMMENDATION	(b) (5)
-----------------------	---------

REVIEWER COMMENTS	
DATE:	
ATTORNEY FOLLOW-UP TO REVIEWER COMMENTS	
DATE:	



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Ivan Greenberg, Ph.D
No. M803
25 East Wayne Avenue
Silver Spring, MD 20901

Re: Appeal No. AP-2012-03351
Request No. 1196508
ADW:CDT

Dear Dr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records concerning Project Megiddo.

After carefully considering your appeal, and as a result of discussions between FBI personnel and this Office, I am remanding your request for a further search for responsive records. If the FBI locates releasable records, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by the FBI. If you would like to inquire about the status of this remand, please contact the FBI directly.

If you are dissatisfied with my action on your appeal, the Freedom of Information Act permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Sean R. O'Neill
Chief
Administrative Appeals Staff

By:

Anne D. Work
Senior Counsel
Administrative Appeals Staff



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Signed 9/6/13

August 29, 2013

Dr. Ivan Greenberg
#M803

25 East Wayne Avenue
Silver Spring, MD 20901

igreen7047@aol.com

VIA: U.S. Mail Appeal Portal

Re: Appeal No. AP-2013-03252 ✓
Request No. 1196508-001 ✓
SRO:RRK ✓

Dear Dr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records concerning background documents/research used to generate the "Project Megiddo" threat assessment.

After carefully considering your appeal, I am affirming the FBI's action on your request. The FBI informed you that it could locate no responsive main file records subject to the Freedom of Information Act in its files. I have determined that the FBI's action was correct and that it conducted an adequate, reasonable search for such records. *The FBI conducted an extensive search for such records. I note that*

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the actions of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the ~~Freedom of Information Act~~ *FIA* permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 301-837-1996; toll free at 1-877-684-6448; or facsimile at 301-837-0348.

Sincerely,

Sean R. O'Neill
Chief
Administrative Appeals Staff

BLITZ FORM

APPEAL NO.	COMPONENT	REQUEST NO.	OIP ATTORNEY	SUBMITTED ON:
AP-2013-03252	FBI	1196508-001	RRK	8/29/2013

REQUEST:

REQUEST DATE	REQUESTER NAME	PRISONER	ATTORNEY
Dated: 3/13/2013 Rec'd:	Ivan Greenberg	NO	NO
SUBJECT OF REQUEST	Background documents/research used to generate the "Project Megiddo" threat assessment		

AGENCY RESPONSE:

DATE	ACTION	REV'D	RIF	RIP	WIF	REFERRED	OTHER
5/10/2013	NR		--			--	--
FOIA						PA	--
SEARCH NOTES	(b) (5)						

APPEAL:

DATE OF APPEAL	Dated: 5/23/2013 Rec'd:	AGENCY CONTACT	(b) (6), (b) (7)(C)	PHONE NUMBER	
Fee Issues?	NO	Timely?	YES		
ARGUMENTS ON APPEAL	Appeals Search				
DISCUSSION	(b) (5)				

AG GUIDELINES CONSIDERATION	
--	--

RECOMMENDATION	(b) (5)
-----------------------	---------

REVIEWER COMMENTS <i>SR</i>	(b) (5)
DATE: <i>9/6/13</i>	
ATTORNEY FOLLOW-UP TO REVIEWER COMMENTS	
DATE:	

FOIA
FBI

RRK
Protected

Request Summary Report

AP-2013-03252 / PB - Greenberg, Ivan [Other Requester]

Track:	Simple	Date on Request:	2013-05-23
Perfected:		Date Initially Received:	2013-05-23
Due:		Requester File Ref. #:	
Completed:		Jacket Number:	
Officer Assigned:	Bucket, Portal	Coordination CAIR:	No
Decision Maker:		Request Transferred In:	No
Deadline:	20	Response Time:	0

Organization:	Telephone:	7189288228
Address:	Fascimile:	
	Other Telephone:	
	Email:	igreen7047@aol.com

Summary:

Request Text:

Dear OIP:

I appeal to you for the second time about the actions of the FBI on my FOIA request for their background documents/research used to generate their "Project Megiddo" threat assessment report in 1999.

FBI said again there are no responsive records.

I ask that FBI be compelled to search all cross reference files (as well as any main files) with reference to Project Megiddo. It is incomprehensible that such records do not exist.

I am a book author writing on the FBI and civil liberties. (See my The Dangers of Dissent; and my Surveillance in America books). I seek these records for a writing project.

I asked they be released in electronic form.

Please advise FBI to search further for their Project Megiddo records.

Sincerely,
Ivan Greenberg, Ph D



CLOSING

Date Completed:		Method of Access:	
Decision Communicated:		Method of Delivery:	Courier
Request Disposition:		Other Reasons for Denial:	
Pages Received:	0	Request Transferred Out:	No
Pages Reviewed:	0		
Pages Granted:	0		
Pages Not Relevant:	0		
Comment:			

Disposition:	Release Date:
Pages Reviewed:	Method of Delivery:
Pages Granted:	Other Reasons for Denial:
Pages Not Relevant:	Method of Access:
Version :	

Sections:

AccessPro Case Management:
AccessPro Redaction:



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

May 10, 2013

MR. IVAN GREENBERG
NUMBER M803
25 EAST WAYNE AVENUE
SILVER SPRING, MD 20901

FOIPA Request No. 1196508-001
Subject: RECORDS ON PROJECT MEGIDDO

Dear Mr. Greenberg:

This is in response to your Freedom of Information Act (FOIA) request and Department of Justice, Office of Information Policy Appeal Number AP-2012-03351.

A new search of the Federal Bureau of Investigation's (FBI) indices was conducted. The FBI was unable to identify any main or cross reference files concerning the background documents/research used to generate the "Project Megiddo" threat assessment.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

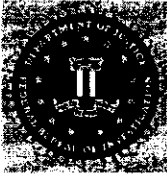
You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Enclosed for your information is a copy of the FBI Fact Sheet.

Sincerely,

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure



FBI FACT SHEET

- **The primary function of the FBI is law enforcement.**
- **The FBI does not keep a file on every citizen of the United States.**
- **The FBI was not established until 1908 and we have very few records prior to the 1920s.**
- **FBI files generally contain reports** of FBI investigations of a wide range of matters, including counterterrorism, counter-intelligence, cyber crime, public corruption, civil rights, organized crime, white collar crime, major thefts, violent crime, and applicants.
- **The FBI does not issue clearances or non-clearances for anyone other than its own personnel or persons having access to FBI facilities.** Background investigations for security clearances are conducted by many different Government agencies. Persons who received a clearance while in the military or employed with some other government agency should contact that entity. Most government agencies have websites which are accessible on the internet which have their contact information.
- **An identification record or "rap sheet" is NOT the same as an "FBI file."** It is a listing of information taken from fingerprint cards and related documents submitted to the FBI in connection with arrests, federal employment, naturalization or military service. The subject of a "rap sheet" may obtain a copy by submitting a written request to FBI, Criminal Justice Information Services (CJIS) Division, Record Request, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. Along with a specific written request, the individual must submit a new full set of his/her fingerprints in order to locate the record, establish positive identification, and ensure that an individual's records are not disseminated to an unauthorized person. The fingerprint submission must include the subject's name, date and place of birth. There is a required fee of \$18 for this service, which must be submitted by money order or certified check made payable to the Treasury of the United States. A credit card payment option is also available. Forms for this option and additional directions may be obtained by accessing the FBI Web site at www.fbi.gov/about-us/cjis/background-checks/background_checks.
- **The National Name Check Program (NNCP)** conducts a search of the FBI's Universal Index (UNI) to identify any information contained in FBI records that may be associated with an individual and provides the results of that search to a requesting federal, state or local agency. Names are searched in a multitude of combinations and phonetic spellings to ensure all records are located. The NNCP also searches for both "main" and "cross reference" files. A main file is an entry that carries the name corresponding to the subject of a file, while a cross reference is merely a mention of an individual contained in a file. The results from a search of this magnitude can result in several "hits" and "idents" on an individual. In each instance where UNI has identified a name variation or reference, information must be reviewed to determine if it is applicable to the individual in question.
- **The Record/Information Dissemination Section (RIDS)** searches for records and provides copies of FBI files responsive to Freedom of Information or Privacy Act (FOIPA) requests for information. RIDS provides responsive documents to requesters seeking "reasonably described information." For a FOIPA search, the subject's name, event, activity, or business is searched to determine whether there is an associated investigative file. This is called a "main file search" and differs from the NNCP search.

FOR GENERAL INFORMATION ABOUT THE FBI, VISIT OUR WEBSITE AT
www.fbi.gov



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

MAR 13 2013

Ivan Greenberg, Ph.D
No. M803
25 East Wayne Avenue
Silver Spring, MD 20901

Re: Appeal No. AP-2012-03351
Request No. 1196508
MTC:CDT

Dear Dr. Greenberg:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records concerning Project Megiddo.

After carefully considering your appeal, and as a result of discussions between FBI personnel and this Office, I am remanding your request for a further search for responsive records. If the FBI locates releasable records, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by the FBI. If you would like to inquire about the status of this remand, please contact the FBI directly.

If you are dissatisfied with my action on your appeal, the Freedom of Information Act permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Sean R. O'Neill
Chief
Administrative Appeals Staff

By: *Anne D. Work*

Anne D. Work
Senior Counsel
Administrative Appeals Staff

FBI

*Original
Request*

From: igreen7047 <igreen7047@aol.com>
To: foiparequest <foiparequest@ic.fbi.gov>
Subject: FOIA request for Project Megiddo records
Date: Mon, Aug 6, 2012 3:44 pm

Dear FBI FOIA Office:

This email is a records request under the Freedom of Information Act and Privacy Act.

I seek all FBI files or FBI documents having to do with the subject of: Project Megiddo.

Project Megiddo was an FBI threat assessment done before the Millennium (year 2000). I already have a copy of the official FBI Megiddo report issued in 1999. I seek the investigatory records involved in Project Megiddo. I seek the FBI documents upon which the report is based.

I request to receive all material in an electronic form, such as on CD-ROM.

Sincerely,

Dr. Ivan Greenberg
25 East Wayne Ave. #M803
Silver Spring, MD 20901
(718). 928-8228



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

June 17, 2013

Dr. Ivan Greenberg
#M803
25 East Wayne Avenue
Silver Spring, MD 20901

Re: "Project Megiddo" threat assessment report in 1999

Dear Dr. Greenberg:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on May 23, 2013.

The Office of Information Policy has the responsibility of adjudicating such appeals. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **AP-2013-03252**. Please mention this number in any future correspondence to this Office regarding this matter. Please note that if you provide an e-mail address or another electronic means of communication with your appeal, this Office may respond to your appeal electronically even if you submitted your appeal to this Office via regular U.S. mail.

We will notify you of the decision on your appeal as soon as we can. If you have any questions about the status of your appeal, you may contact me at the number above. If you have submitted your appeal through this Office's online electronic appeal portal, you may also obtain an update on the status of your appeal by logging into your portal account.

Sincerely,

A handwritten signature in black ink, appearing to read "Priscilla Jones", with a stylized flourish at the end.

Priscilla Jones
Supervisory Administrative Specialist

consult
needed w/

JMD

Sobonya, David P.

From: igreen7047@aol.com
Sent: Thursday, August 05, 2010 12:03 AM
To: FOIPA_Request
Subject: Ethics Waivers at FBI

Dear FBI FOIA Office:

This email is a records request under the Freedom of Information Act for all FBI files or FBI documents having to do with the subject of: "Ethics Waivers."

I believe most federal agencies in the U.S. Government have "Ethics Waivers." I want a copy of all "Ethics Waivers" that may exist at the FBI.

Sincerely,

Dr. Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
718. 928-8228

8/5/2010

Requester: Ivan Greenberg

Case #: AG/11-00781

Date of Request: 8/5/10

Date Received: 5/19/11

Documents Requested: all FBI files having to do with "Ethics Waivers."

6/8/11

- This was a referral from the FBI. They sent us a 5 pages JMD memo that was sent to the DAG.
- The memo is former FBI Director Robert Mueller's ethics waiver.
- This will need a JMD consult, followed by a DAG concurrence.
- (b) (5) [REDACTED]
- Drafted JMD consult and submitted to Vanessa for review.

6/14/11

- Mailed JMD consult

6/17/11

- JMD consult returned. (b) (5) [REDACTED]

6/20/11

- (b) (5), (b) (6) [REDACTED]
- [REDACTED]
- [REDACTED]
- Drafted DAG concurrence memo (b) (5) [REDACTED]

7/13/11

- DAG concurrence returned (b) (5)
- Drafted final response letter and submitted to Doug for review.

7/18/11

- Mailed final response letter
- Closed in eFOIA

Request Summary Report

FOIA-2011-00781 / ODAG - Other

Track:	Complex	Date on Request:	2010-08-05
Perfected:	2011-06-01	Date Initially Received:	2011-06-01
Due:	2011-06-29	Requester File Ref. #:	referral from FBI
Completed:		Jacket Number:	DAG(GSA)
Officer Assigned:	ODAG, User	Coordination CAIR:	No
Decision Maker:		Request Transferred In:	No
Deadline:	20	Response Time:	13
Summary:	Ethics Waivers		
Request Text:	Ethics Waivers		

ACTIVITY

Action	Contact	Created	Due	Completed	On Hold	Elapsed
Review	Office of Information Policy - BRINKMANN, Vanessa	2011-06-20		2011-06-20	No	0
Comments:	DAG Concurrence					
Consult Other Component	Justice Management Division - LAPARA, Joan	2011-06-14	2011-08-02	2011-06-17	No	3
Comments:						
Reassign	Office of Information Policy - ALVAREZ, Greg	2011-06-01			No	19
Comments:						
Referred From	Federal Bureau of Investigation - HARDY, David M.	2011-05-19			No	32
Comments:						

CLOSING

Date Completed:		Method of Access:	
Decision Communicated:		Method of Delivery:	
Request Disposition:		Other Reasons for Denial:	
Pages Received:	0	Request Transferred Out:	No
Pages Reviewed:	0		
Pages Granted:	0		
Pages Not Relevant:	0		
Comment:			
Disposition:		Release Date:	
Pages Reviewed:		Method of Delivery:	
Pages Granted:		Other Reasons for Denial:	
Pages Not Relevant:		Method of Access:	
Version :			

Sections:

AccessPro Case Management:
AccessPro Redaction:

Request Summary Report

FOIA-2011-00781 / ODAG - Other

Track:	Complex	Date on Request:	2010-08-05
Perfected:	2011-06-01	Date Initially Received:	2011-06-01
Due:	2011-06-29	Requester File Ref. #:	referral from FBI
Completed:		Jacket Number:	DAG(GSA)
Officer Assigned:	ODAG, User	Coordination CAIR:	No
Decision Maker:		Request Transferred In:	No
Deadline:	20	Response Time:	29

Summary:	Ethics Waivers
Request Text:	Ethics Waivers

ACTIVITY

Action	Contact	Created	Due	Completed	On Hold	Elapsed
Final Review/Signature	Office of Information Policy - HIBBARD, Douglas	2011-07-13		2011-07-13	No	0
Comments:	Final Response Letter					
Concur SMO	Office of the Deputy Attorney General - BRINKLEY, Winnie	2011-07-07		2011-07-13	No	6
Comments:						
Review	Office of Information Policy - MALLON, Carmen	2011-06-20		2011-06-20	No	0
Comments:	DAG Concurrence					
Consult Other Component	Justice Management Division - LAPARA, Joan	2011-06-14	2011-08-02	2011-06-17	No	3
Comments:						
Reassign	Office of Information Policy - ALVAREZ, Greg	2011-06-01			No	42
Comments:						
Referred From	Federal Bureau of Investigation - HARDY, David M.	2011-05-19			No	55
Comments:						

[Easy Close]

Doug,

This was a referral of a 5 pg doc from FBI.

(b) (5) (b) (5)

As such, here's a final response letter for
-Greg, 7/13
reviews.

CARMEN,

07/14

QUICK DAG CLOSING. SEE
GREG'S NOTE FOR DETAILS.



DAG



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

JUL 18 2011

Dr. Ivan Greenberg
2105 Wallace Avenue, #5A
Bronx, NY 10462

Re: DAG/11-00781 (F)
CLM:DRH:GSA

Dear Mr. Greenberg:

While processing your Freedom of Information Act (FOIA) request dated August 5, 2010, for records pertaining to Federal Bureau of Investigation (FBI) ethics waivers, the FBI referred one document, totaling five pages, to this Office for processing and direct response to you on behalf of the Office of the Deputy Attorney General. For your information, the document was received by this Office on June 1, 2011.

I have determined that this document is appropriate for release without excision and a copy is enclosed.

Inasmuch as this constitutes a full grant of the document that was referred by the FBI, for processing on behalf of the Office of the Deputy Attorney General, I am closing your file in this Office.

Sincerely,

Carmen L. Mallon
Chief of Staff

Enclosure



Washington, D.C. 20530

AUG 13 2001

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

FROM:

Janis Sposato
Janis Sposato
Acting Assistant Attorney General
for Administration

SUBJECT:

Waiver under 18 U.S.C. § 208(b)(1)
for Robert S. Mueller, III

PURPOSE: To obtain a waiver from the disqualification of the financial conflict of interest statute so that Robert S. Mueller III will be able to participate as Director, Federal Bureau of Investigation (FBI) in matters affecting those entities in which he or his wife hold a financial interest of \$25,000 or less.

DISCUSSION: Pursuant to the provisions of 18 U.S.C. § 208 (b), I hereby request a waiver from the prohibition of 18 U.S.C. § 208(a) for Robert S. Mueller III. Section 208(a) prohibits him, as an executive branch employee, from participating personally and substantially in particular matters in which, to his knowledge, he, his spouse or other organizations with whom he has a specified relationship has a financial interest. However, section 208(b)(1) permits a waiver of the prohibition where his financial interest in a matter is not so substantial as to be deemed likely to affect the integrity of the services which the government may expect from him.

Under the Department of Justice Order on procedures for complying with ethics requirements, you have been delegated the responsibility for making ethics determinations for Mr. Mueller to include a waiver under section 208(b)(1). This waiver will be your determination that certain financial interests are not so substantial as to be likely to affect the integrity of his services to the government.

Memorandum for the Deputy Attorney General
Subject: Waiver under 18 U.S.C. § 208 (b) (1)
for Robert S. Mueller, III

Page 2

As the Director of the FBI, Mr. Mueller will be responsible for directing the actions of FBI employees in matters ranging from those involving specific parties to matters of general application. He will also be responsible for formulating and implementing policies and programs that can affect any member of the corporate sector at any time. Given the nature and scope of his responsibilities, this waiver will be helpful where it would be important to the Justice Department for him to participate in certain matters without having to disqualify himself or seek a waiver.

The interests for which Mr. Mueller seeks a waiver are stocks in large publicly traded companies, either held directly or in trusts in which his wife has a beneficial interest. He seeks this waiver to act in any matter, whether it is one involving specific parties or a matter of general application where his or his wife's interest does not exceed \$25,000 in any one entity affected by the matter. This amount is a very small fraction of the family's total assets. A list of the stocks covered by this waiver is attached.

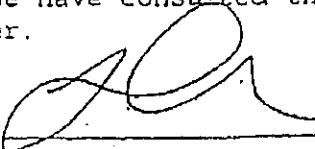
He will recuse himself or seek a separate waiver before participating in any matter that could have a direct and predictable effect on the companies in which he, his wife or both of them have an interest that is in excess of \$25,000. Further, Mr. Mueller has agreed to refrain from purchasing any new assets in his own account other than diversified mutual funds or government securities during his tenure as FBI Director. Any new assets acquired by the trustee of his wife's trusts of which he is aware will be added to the list of assets not covered by the waiver to be maintained by his staff for screening purposes. When Mr. Mueller files his annual financial disclosure report, we will update this waiver to take into account any changes in assets held.

RECOMMENDATION: I recommend that you grant Mr. Mueller a waiver from the prohibition in section 208 (a) based on a determination that his interest in matters affecting the listed companies is not so substantial as to affect the integrity of his services to the government. This waiver will allow him to act in any particular matter affecting his financial interests where the present value of his stock in any single entity does not exceed \$25,000 and that any increase in the present value of the listed stock due to

Memorandum for the Deputy Attorney General
Subject: Waiver under 18 U.S.C. § 208 (b) (1)
for Robert S. Mueller, III

Page 3

market growth would not remove it from coverage under the
waiver. We have consulted the Office of Government Ethics on
this waiver.

APPROVE: 

8/16/01

Concurring Components:

None.

DISAPPROVE: _____

Nonconcurring Components:


None

OTHER: _____

Attachments

Robert S. Mueller, III - Assets Covered by Waiver

Abercrombie & Fitch
Amgen
Anheuser-Busch
Automatic Data Processing
Cintas
Cisco Systems
Clorox
Colgate-Palmolive
Consolidated Edison
Delphi Automotive
Disney, Walt
Dow Chemical
Elan PLC
Ethan Allen
First Data Corp.
General Motors
Genuity
Gillette
Home Depot
Imation
Johnson & Johnson
Kimberly-Clark
Limited
Lockheed Martin
Martin Marietta Materials
Molex
P, P & L Res.
Paychex
Payless Shoesource
Pfizer
Raytheon
Sherwin Williams
Staples
Starbucks
State Street Corp.
Stryker
Sysco
Tricon Global Restaurants
Walgreen
Wal-Mart Stores



Robert S. Mueller, III - Assets Excluded From Waiver

Abbott Labs
American Home Products
American International Group
BP Amoco
Chevron
Dupont
Exxon
General Electric
IBM
May Department Stores
Merck
Minnesota Mining
Pepsico
Philip Morris
Pitney Bowles
Proctor & Gamble
Royal Dutch Petroleum
SBC Communications
Sara Lee
Verizon

Vanessa,

[Easy]

This was a referral from FBI. The document they sent us consists of a JMD memo to ODAG seeking approval of an ethics waiver for former FBI Director Robert Mueller. This will need a JMD consult, followed by a DAG concurrence. Here's the JMD consult.

- Greg 6/8

Vanessa,

[Easy]

This was a referral from FBI that needed a JMD consult & a DAG concurrence.

(b) (5)

(b) (5)

- Greg 6/20



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

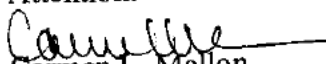
MEMORANDUM

JUL 07 2011

TO: Stuart M. Goldberg
Chief of Staff and Counselor to
the Deputy Attorney General
Office of the Deputy Attorney General

Attention: Winnie Brinkley

FROM:


Carmen L. Mallon
Chief of Staff

SUBJECT: Freedom of Information Act (FOIA) Request of Ivan Greenberg for Records
Pertaining to Federal Bureau of Investigation (FBI) Ethics Waivers

While processing the above-referenced FOIA request, the FBI referred the attached document, totaling five pages, to this Office for processing and response to the requester.


(b) (5)

Please sign the attached concurrence sheet if you agree with my proposed actions. For your convenience, I have also attached a copy of the request letter. If you have any questions, please call me at 616-5474. Thank you for your attention to this matter.

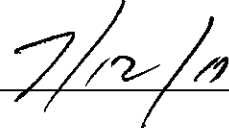
Attachments
CLM:VRB:GSA

Re: Freedom of Information Act (FOIA) Request of Ivan Greenberg for Records Pertaining to Federal Bureau of Investigation (FBI) Ethics Waivers

(✓) Release the document in full.



Stuart M. Goldberg
Chief of Staff and Counselor to
the Deputy Attorney General
Office of the Deputy Attorney General



Date



U.S. Department of Justice

Office of Information Policy

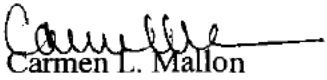
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() Release the document in full.

Stuart M. Goldberg
Chief of Staff and Counselor to
the Deputy Attorney General
Office of the Deputy Attorney General

Date

Sobonya, David P.

From: igreen7047@aol.com
Sent: Thursday, August 05, 2010 12:03 AM
To: FOIPA_Request
Subject: Ethics Waivers at FBI

Dear FBI FOIA Office:

This email is a records request under the Freedom of Information Act for all FBI files or FBI documents having to do with the subject of: "Ethics Waivers."

I believe most federal agencies in the U.S. Government have "Ethics Waivers." I want a copy of all "Ethics Waivers" that may exist at the FBI.

Sincerely,

Dr. Ivan Greenberg
2105 Wallace Ave. #5A
Bronx, NY 10462
718. 928-8228

8/5/2010



Washington, D.C. 20530

AUG 13 2001

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

FROM:

Janis A. Sposato
Janis A. Sposato
Acting Assistant Attorney General
for Administration

SUBJECT:

Waiver under 18 U.S.C. § 208(b)(1)
for Robert S. Mueller, III

PURPOSE: To obtain a waiver from the disqualification of the financial conflict of interest statute so that Robert S. Mueller III will be able to participate as Director, Federal Bureau of Investigation (FBI) in matters affecting those entities in which he or his wife hold a financial interest of \$25,000 or less.

DISCUSSION: Pursuant to the provisions of 18 U.S.C. § 208 (b), I hereby request a waiver from the prohibition of 18 U.S.C. § 208(a) for Robert S. Mueller III. Section 208(a) prohibits him, as an executive branch employee, from participating personally and substantially in particular matters in which, to his knowledge, he, his spouse or other organizations with whom he has a specified relationship has a financial interest. However, section 208(b)(1) permits a waiver of the prohibition where his financial interest in a matter is not so substantial as to be deemed likely to affect the integrity of the services which the government may expect from him.

Under the Department of Justice Order on procedures for complying with ethics requirements, you have been delegated the responsibility for making ethics determinations for Mr. Mueller to include a waiver under section 208(b)(1). This waiver will be your determination that certain financial interests are not so substantial as to be likely to affect the integrity of his services to the government.

Memorandum for the Deputy Attorney General
Subject: Waiver under 18 U.S.C. § 208 (b) (1)
for Robert S. Mueller, III

Page 2

As the Director of the FBI, Mr. Mueller will be responsible for directing the actions of FBI employees in matters ranging from those involving specific parties to matters of general application. He will also be responsible for formulating and implementing policies and programs that can affect any member of the corporate sector at any time. Given the nature and scope of his responsibilities, this waiver will be helpful where it would be important to the Justice Department for him to participate in certain matters without having to disqualify himself or seek a waiver.

The interests for which Mr. Mueller seeks a waiver are stocks in large publicly traded companies, either held directly or in trusts in which his wife has a beneficial interest. He seeks this waiver to act in any matter, whether it is one involving specific parties or a matter of general application where his or his wife's interest does not exceed \$25,000 in any one entity affected by the matter. This amount is a very small fraction of the family's total assets. A list of the stocks covered by this waiver is attached.

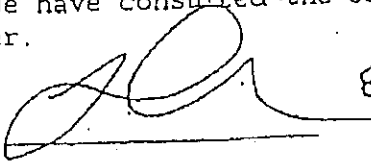
He will recuse himself or seek a separate waiver before participating in any matter that could have a direct and predictable effect on the companies in which he, his wife or both of them have an interest that is in excess of \$25,000. Further, Mr. Mueller has agreed to refrain from purchasing any new assets in his own account other than diversified mutual funds or government securities during his tenure as FBI Director. Any new assets acquired by the trustee of his wife's trusts of which he is aware will be added to the list of assets not covered by the waiver to be maintained by his staff for screening purposes. When Mr. Mueller files his annual financial disclosure report, we will update this waiver to take into account any changes in assets held.

RECOMMENDATION: I recommend that you grant Mr. Mueller a waiver from the prohibition in section 208 (a) based on a determination that his interest in matters affecting the listed companies is not so substantial as to affect the integrity of his services to the government. This waiver will allow him to act in any particular matter affecting his financial interests where the present value of his stock in any single entity does not exceed \$25,000 and that any increase in the present value of the listed stock due to

Memorandum for the Deputy Attorney General
Subject: Waiver under 18 U.S.C. § 208 (b) (1)
for Robert S. Mueller, III

Page 3

market growth would not remove it from coverage under the
waiver. We have consulted the Office of Government Ethics on
this waiver.

APPROVE: 

8/16/01

Concurring Components:

None.

DISAPPROVE: _____

Nonconcurring Components:

None


OTHER: _____

Attachments



Robert S. Mueller, III - Assets Covered by Waiver

Abercrombie & Fitch
Amgen
Anheuser-Busch
Automatic Data Processing
Cintas
Cisco Systems
Clorox
Colgate-Palmolive
Consolidated Edison
Delphi Automotive
Disney, Walt
Dow Chemical
Elan PLC
Ethan Allen
First Data Corp.
General Motors
Genuity
Gillette
Home Depot
Imation
Johnson & Johnson
Kimberly-Clark
Limited
Lockheed Martin
Martin Marietta Materials
Molex
P, P & L Res.
Paychex
Payless Shoesource
Pfizer
Raytheon
Sherwin Williams
Staples
Starbucks
State Street Corp.
Stryker
Sysco
Tricon Global Restaurants
Walgreen
Wal-Mart Stores



Robert S. Mueller, III - Assets Excluded From Waiver

Abbott Labs
American Home Products
American International Group
BP Amoco
Chevron
Dupont
Exxon
General Electric
IBM
May Department Stores
Merck
Minnesota Mining
Pepsico
Philip Morris
Pitney Bowles
Proctor & Gamble
Royal Dutch Petroleum
SBC Communications
Sara Lee
Verizon



U.S. Department of Justice

Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

MEMORANDUM

JUN 14 2011

TO: Joan Lapara
FOIA Contact
Justice Management Division

FROM:  Carmen L. Mallon
Chief of Staff

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Pertaining to Federal Bureau of Investigation (FBI) Ethics Waivers;
OIP No. AG/11-00781

While processing the above-referenced FOIA request, the FBI referred the attached document, totaling five pages, to this Office for processing.

(b) (5)

For your information, we will also be forwarding this document to the Office of the Deputy Attorney General prior to our response to the requester.

You may forward your response to the following address: Office of Information Policy, U.S. Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, Attention: Greg Alvarez.

A copy of the requester's initial letter is attached for your information. If you have any questions regarding this matter, please call Greg Alvarez of this Office at (202) 616-9712.

Attachments
CLM:VRB:GSA

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Memorandum for the Deputy Attorney General
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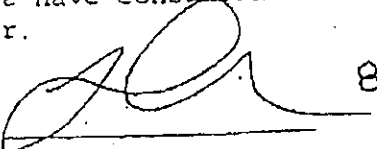
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Page 3

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APPROVE: 

8/16/01

Concurring Components:

None.

DISAPPROVE: _____

Nonconcurring Components:

None


OTHER: _____

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Abercrombie & Fitch
Amgen
Anheuser-Busch
Automatic Data Processing
Cintas
Cisco Systems
Clorox
Colgate-Palmolive
Consolidated Edison
Delphi Automotive
Disney, Walt
Dow Chemical
Elan PLC
Ethan Allen
First Data Corp.
General Motors
Genuity
Gillette
Home Depot
Imation
Johnson & Johnson
Kimberly-Clark
Limited
Lockheed Martin
Martin Marietta Materials
Molex
P, P & L Res.
Paychex
Payless Shoesource
Pfizer
Raytheon
Sherwin Williams
Staples
Starbucks
State Street Corp.
Stryker
Sysco
Tricon Global Restaurants
Walgreen
Wal-Mart Stores



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American Home Products
American International Group
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Chevron
Dupont
Exxon
General Electric
IBM
May Department Stores
Merck
Minnesota Mining
Pepsico
Philip Morris
Pitney Bowles
Proctor & Gamble
Royal Dutch Petroleum
SBC Communications
Sara Lee
Verizon